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FLEXITIME (ALTERNATIVE WORK SCHEDULE) LEGISLATION: H.R. 5366 AND PROPOSED ADMINISTRATION LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 5366

TO AMEND TITLE 5, UNITED STATES CODE, TO PROVIDE PERMANENT AUTHORIZATION FOR FEDERAL AGENCIES TO USE FLEXIBLE AND COMPRESSED EMPLOYEE WORK SCHEDULES

MARCH 3, 1982

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FLEXITIME (ALTERNATIVE WORK SCHEDULE) LEGISLATION: H.R. 5366 AND PROPOSED ADMINISTRATION LEGISLATION

WEDNESDAY, MARCH 3, 1982

U.S. SENATE,
SUBCOMMITTEE ON CIVIL SERVICE,
POST OFFICE, AND GENERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 9:05 a.m., in room 3302, Dirksen Senate Office Building, Hon. Ted Stevens (chairman of the subcommittee) presiding.

Present: Senators Stevens and Pryor.

Staff present: Wayne A. Schley, staff director; Jamie Cowen, chief counsel; Edwin S. Jayne, minority staff director; Pat Halcomb, chief clerk; and Margaret Sims.

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Today, the Subcommittee on Civil Service, Post Office, and General Services, Senate Governmental Affairs Committee, is holding a hearing on the reauthorization of the Government's alternative work schedules program. During the past 3 years more than 325,000 Federal employees in 1,500 organizations took part in this experimental program authorized by the 95th Congress. The experiment's authorization ends March 28, 1982. The experiment involves both flexible and compressed work schedules. Flexible work schedules allow employees, within limits, to vary the times they report for duty and depart from work. Compressed work schedules allow employees to complete their same hourly requirements in fewer days.

In the letter of communication to the President pro tempore of the Senate accompanying the experiment's interim report last fall, Dr. Donald Devine, Director of the Office of Personnel Management, reported that the program was generally a success. However, in some limited circumstances, the schedules did not work well. We have before us today two legislative proposals. The first one, introduced by Congresswoman Geraldine Ferraro, H.R. 5366, reauthorizes the current program without change. The other is an administration proposal which tightens up management controls and removes the introduction and termination of a schedule from the collective-bargaining process.

I wish to remind the interested parties that this program ends in 3½ weeks unless quickly reauthorized. As I mentioned previously,

it involves over 300,000 Federal workers—some of them are in my State—stationed throughout the Nation. The collapse of this program will have drastic repercussions not only on the lives affected but on the public we serve.

I feel we must look toward some sort of accommodation on this matter or a program which we all support will not survive.

We do hope we can get the bill considered very quickly in the Senate.

Again, I am happy that the chairwoman of the House committee is here to present a statement on behalf of her bill.

We appreciate your coming.

TESTIMONY OF HON. GERALDINE A. FERRARO, CHAIRWOMAN, SUBCOMMITTEE ON HUMAN RESOURCES, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES

Representative FERRARO. Good morning. I appreciate the opportunity to testify. Seated with me is Tom Trabucco of my staff.

I am pleased to be here this morning to present my views on legislation to provide permanent authorization for alternative work schedules in Federal agencies. As you know, yesterday the House did not agree to suspend the rules on H.R. 5366, but a clear majority—255 to 142—supported this legislation. I will be asking the House Rules Committee to grant a rule so that this legislation can be reconsidered.

Mr. Chairman, during the past 3 years more than 325,000 Federal employees in 1,500 organizations have taken part in an experimental program temporarily authorized by Congress. The Federal Employees Flexible and Compressed Work Schedules Act of 1978 allowed experimentation with a number of alternatives to the traditional fixed schedule 8-hour workday.

The 1978 law required the Office of Personnel Management to submit a report on the results of the experiment and legislative recommendations no later than September 30, 1981, so that Congress would have sufficient time to consider an authorization in an orderly fashion. Our subcommittee staffs have been coordinating since last August in order to insure a smooth reauthorization. As you know, I had planned to hold hearings last October. We did not receive the report from OPM until November 9, and as a result my hearings had to be canceled.

When OPM had not transmitted proposals at the beginning of this session, I introduced legislation in order to avert the mass confusion which will result if the current authorization lapses. I hope that we can continue to cooperate so that we can complete congressional action on that legislation expeditiously.

My bill, H.R. 5366, is nearly identical to Public Law 95-390, the existing authorization for the successful experiment conducted during the past 3 years. This legislation permits, but does not require, Government agencies to utilize flexible and compressed work schedules. I would like to emphasize that management retains broad discretion on the use of these alternative work schedules to prevent disruption of agency operations or additional agency cost. Subject to collective-bargaining agreements, management has the

right, under my bill, to terminate any AWS program it determines is not in the best interest of the public, the Government, or the employees. H.R. 5366 would continue the requirement for negotiating with exclusively recognized representatives concerning flexible or compressed work schedules.

Mr. Chairman, I would like to discuss these last points in some detail because they constitute the major areas of disagreement between H.R. 5366 and the administration proposal.

The experimental legislation required OPM to evaluate the program and report to Congress. In the report OPM stated:

> The evaluation concludes that all of the alternative work schedule types used in the experiment were successful in most situations from the perspective of both the experimenting organizations and individuals involved.

The report goes on to point out that careful management assessment and planning is required prior to implementing an AWS program. That is a point with which I, and I believe most Members of Congress, agree. However, the administration bill does nothing more than H.R. 5366 to insure that careful management.

The administration expressed its position on legislating good management in testimony before another subcommittee of your committee on September 28, 1981—"we believe that effective management is best achieved administratively rather than through legislation." The fact is that good management cannot be legislated, only guidelines to good management can be legislated, and that is precisely what H.R. 5366 does.

The administration bill seeks to establish an impossible requirement to only permit establishment of an AWS program when a determination has been made prior to implementation that the use of the alternative work schedules would (1) improve productivity or provide greater service to the public, and (2) not add to the cost of agency operations.

In testimony before my subcommittee two distinguished academics who have done research in the area of alternative work schedules in the private and public sectors, Dr. Marvin Katzman and Dr. Ben Burdetsky, both in the business administration department in George Washington University, told us that it would be impossible to determine even after the program has been in effect whether there is a direct relationship between AWS and changes in productivity. They testified that it would probably not be possible to determine in advance whether productivity would increase. The decision criteria which OPM wishes to establish simply will not work.

The second major difference between the administration proposal and H.R. 5366 is the exclusion of employees or their organizations in the administration bill from any say in the introduction or termination of alternative work schedules.

Mr. Chairman, in view of the months of work that went into striking the balance in labor-management relations contained in title 7 of the Civil Service Reform Act, I am very disturbed at the attempt to take away the rights which Congress granted to employees and their organizations in that legislation. The administration has not been able to explain why employee organizations should not continue with the same negotiability rights which they currently have other than simply saying management doesn't want to

bother negotiating with employees. I certainly hope, Mr. Chairman, that you and the members of your subcommittee agree with me that that is not a defensible position.

Another area of disagreement between H.R. 5366 and the administration bill is over who should prescribe the regulations regarding pay and the administration of leave and retirement provisions under AWS. H.R. 5366 continues the provisions which were tested under the experiment. Not a single instance of problems resulting from those procedures was presented to my subcommittee. Despite not indicating any difficulties with these provisions, the administration has proposed that decisions on the administration of overtime and premium pay, leave and retirement shall be determined by regulations. I would like to quote at this point, "Such regulations shall supersede, to the extent inconsistent therewith, * * * any provisions of law." I urge this subcommittee to stop this attempted bureaucratic power grab by OPM. I was shocked to see the administration which so frequently decries bureaucratic regulations attempting to change the intent of Congress, suggesting that regulations issued in this instance could supersede laws.

I have received a large number of letters from Federal employees, particularly from working parents, urging that the program be continued with the broadest possible coverage. At a time when Federal employees have had their pay capped, their health benefits decreased while costs have increased, their retirement benefits reduced, and daily wait for a RIF notice, morale is at an all-time low. I ask this committee to send a message to Federal workers and show that we in Congress understand the lesson demonstrated in the private sector—increased morale benefits not only the employees, but the organizations for which they work.

I urge this committee to very carefully consider the question that was raised at my hearings: "Why shouldn't alternative work programs be adopted if the employees want it and productivity is not decreased?" This is not a partisan issue, Mr. Chairman. This bill was reported from Post Office and Civil Service without a single negative vote. I urge this committee's expeditious action and I will continue to work with you in any way that I can.

I will be happy to answer any questions.

Senator STEVENS. Thank you very much.

You know, I voted against this in 1978 in committee because the people in the Civil Service in my State did not want to be put in a position where they would be forced into flexitime. That was worked out later, and now there is an indication that they support the program as it is.

But, I wonder if there isn't some middle ground between your bill and the administration bill to allow management to have a way out of an inefficient program that develops.

Have you looked at that possibility?

Representative FERRARO. There is a provision in the committee bill which will allow management to terminate a program upon showing a decrease in productivity, additional cost to the Government, or a determination that it was not in the best interest of the public. It is all subject to collective bargaining.

Senator STEVENS. What kind of showing would be required on that? I understand that productivity would be almost impossible to

prove, that is, the association between flexitime and productivity. The problem is if management gets into a bad arrangement, how does it get out of it if it becomes something that is totally controlled by labor-management bargaining?

Representative FERRARO. I would assume, Senator, that when the program is being put into place, and it is a voluntary program, during the course of collective bargaining the termination procedure will be established. Though the testimony that we have from these two academics previously indicated it would be pretty hard to show an increase in productivity, and certainly would be impossible to project from an upfront position, which is the administration's proposal, I should think if one were an efficient manager, one would be able to carefully assess after a period of time if in fact productivity is affected. I think they will also be able to show with concrete figures whether it is costing the Government more money. I think they will also be able to show quite concretely if services to the public diminished.

Senator STEVENS. Does the Government have to go to court to do this? Let's take an example. I was surprised to find in our large Federal buildings that there is a new GSA policy requiring agencies that use the building before or after the normal work period to pay an additional amount for use of the building because it requires heating it earlier and later.

Suppose we get into a flexitime, 4 days, 10 hours—some of them did get into that—and they determined it is really going to cost that agency more money to run their people on the 4/10 than it would be if they were on 5 days, 8 hours a day, and they decided to drop flexitime because of the impact from an economic point of view. Management, as I understand it, does not have under this proposal any right to make those changes based upon the economies that would come to the agency from that change. Once it is into it, it has to have an agreement to get out of flexitime, as I understand the proposal.

Representative FERRARO. As I understand the law, Senator, if the agency determined that there were costs to the Government in money, time, services, or productivity, the agency would have the power to terminate. However, labor would have the right to appeal that decision before a third party as a check against capricious management decisions.

That is how I interpret this.

Senator STEVENS. We will take a look at it. I think there ought to be some middle ground there that allows the termination of the flexitime concept if it does prove to be particularly an economic burden on the agency in this period of time.

Representative FERRARO. The major problem I have with the administration bill is the attempt to establish the unilateral right to terminate without appeal. That is precisely what is wrong with the administration bill. I don't think they should have a unilateral right to institute or terminate. I think that should be subjected to collective bargaining just like other facets of the conditions of employment. I just don't think we should take away from employees those rights for no good reason.

Senator STEVENS. My experience is that employees resist change. In my State they resisted even the experiment in 1978, and now

they resist changing it back. It is change that they are resisting in terms of the format of employment, and I am inclined to think that management ought to have, particularly from a budgetary point of view, the ability to make the decision that the experiment is too costly for the Government without having to make a concession to the labor side that decreases the savings brought about by the change.

We all assume that flexitime would amount to a savings for both employees and Government or they wouldn't be followed. Wasn't that your assumption?

Representative FERRARO. My assumption has been supported by OPM's interim report.

Senator STEVENS. If it turns out the savings are on the side of the employee but not on the side of the Government, how does the Government get out of a bad deal?

Representative FERRARO. Again, if you are saying if management shows that there is a cost to the Government, the Government should be allowed to get out of it.

Senator STEVENS. There would be savings to the employees if they work 4 days instead of 5.

Representative FERRARO. They are not taking into account the savings to the employees. All they are taking into account is the savings to the Government.

Senator STEVENS. You still have to bargain to get out of it and the employees would not agree, that is what I am saying. Isn't there some way to get the Government out without the consent of the employees if it is actually costing more money?

Representative FERRARO. I think perhaps we are both on different interpretations of the concept of the subject of collective bargaining. Under that process, agencies may act but that action is subject to appeal. I think that what we are saying is it would be subject to collective bargaining, it would not be a unilateral decision, and it would be subject to appeal by the employees before proper form—a proper form could be the Labor Relations Board.

Senator STEVENS. All right. We will have our staff work with yours. I wouldn't want to see this bill get hung up.

Representative FERRARO. Let me tell you, Senator, one comment I want to make, this administration seems to be very concerned about productivity. This program has worked extremely well in the private sector. There is testimony that it has worked in major insurance companies in New York. If we are looking to the private sector to learn how to do things, this is one program we should take a close look at.

Let me say I am very concerned about flexitime. I do not in any way want to do anything that would abrogate the rights that labor has achieved through civil service reform. I am not willing to cut down the tree to get an apple, and I feel very very strongly about that.

Senator STEVENS. I agree with you there. We did institute an experimental program and this would become permanent; it is no longer experimental.

Representative FERRARO. That is right. It is a voluntary program, it is not mandatory.

Senator STEVENS. I know. If you volunteer yourself into a bad deal, how can you get out of it?

Representative FERRARO. The provisions are there. The administration states that programs have been terminated. We are opposed to what the administration is suggesting, that is changing the burden. We are placing the program into motion, if it is agreed upon by the two parties on a voluntary basis. If there is a showing of a negative productivity, increased cost, negative services, would we seek to have a termination of the program? The one thing that the administration bill doesn't allow is, all things being equal, if you have productivity remaining the same, everything remaining the same but morale high, that would be insufficient reason to keep the program. You see, I think that is enough. I think if you have employees who are happy, that is good enough a reason to institute a program, all other things remaining equal. The administration bill does not cover that type of situation.

Senator STEVENS. As I read Dr. Devine's testimony, it doesn't sound like he disagrees with you that much. I think it would be helpful if we could get someone from your staff and ours and Dr. Devine's staff together here in the next day or so to see if we can't work out a version of this bill that could be moved through the Senate on a noncontroversial basis and that you can accept and to avoid the problems you have and avoid the problems we have here.

Representative FERRARO. I am delighted that Dr. Devine is here to testify before your subcommittee because we could not get him to come before ours. We have not had cooperation of the administration though I made numerous appeals for them to submit legislation and come in and speak with us. We had a gentleman by the name of Morrison who testified before our committee and told us that as far as he was concerned, and I quote him, on the matters presented by the bill, that he was the right hand of Attila the Hun with reference to negotiations between employees and employers. So we did not have the benefit of any attempt to come to some sort of reasonable solution. I am delighted that you have that opportunity this morning. And certainly our staff will work with yours.

Senator STEVENS. I can understand your consternation with a comment like that. This committee doesn't share that point of view. We ought to be able to work it out because the time is too short to deal except on a consent basis over here.

Thank you very much. My staff will be in touch with yours later.

Dr. Devine, I understand you have another appointment, so I will be happy to have your comments now.

Senator STEVENS. Which one is Attila the Hun? Mr. Morrison is on your right, that must mean you are Attila.

TESTIMONY OF DONALD J. DEVINE, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ACCOMPANIED BY JAMES W. MORRISON, JR., ASSOCIATE DIRECTOR FOR COMPENSATION

Mr. DEVINE. I do have to testify before the House, so if I could, I will summarize my statement.

For the record, this is James Morrison who is the Associate Director for Compensation of the Office of Personnel Management.

The administration supports the continued use of alternative work schedules in the Federal Government. However, that support is contingent upon the presence of stronger management controls on the use of such schedules in order to insure a maximum degree of accountability to the public and the most efficient, cost effective, and productive operation of the Federal agencies and departments.

The administration's proposal permits the head of an agency, subject to OPM's regulatory authority, to authorize the use of alternative work schedules if their use would improve productivity or provide greater service to the public, while not adding to the cost of agency operations. It is the conviction of the administration that in a period of transition, when the size and the scope of the Federal Government are being reduced, a positive emphasis on productivity, public service, and cost effectiveness in the Federal work force is not only reasonable and prudent, but necessary.

A critical feature of the administration's proposal is the provision for management's right to make the threshold decision to use an alternative work schedule and to terminate an alternative work schedule. While the entire intervening process of establishing an AWS program, including implementation and impact, should be subject to bargaining, the administration believes that the initial use and termination of such a program should be governed by an affirmative management determination on the basis of productivity, service to the public, and cost effectiveness.

The rationale for our legislative proposal is grounded in our experience over the past 3 years. Some 325,000 Federal employees have been allowed to vary their hours or days of work in accordance with the 3-year experimental program.

It is beyond question that employees like this on the whole. The problem is getting the public's work done. We believe that there are enough examples of problems raised within agencies, and I have some examples in my testimony, that we should look at closely. And, I might add, there is a very significant amount of opinion among management in the Government, career as well as noncareer, of the difficulties of entering into and getting out of such a contract without some assistance from the law.

The Washington Post succinctly stated in its editorial of February 6, 1982:

> OPM plans to submit legislation to make flexible work schedules a permanent feature in the bureaucracy. It is, however, wisely taking the time to make sure that proper management controls are built in and that decisions about working schedules rest on more than a worker's preference for being at work when the boss is not.

Because of the time, I will end there and I will be happy to answer your questions. There are examples of problems with this in the Government and we don't want to discourage use of alternative work schedules where they make sense, but we do think that this should be a management decision to begin and terminate. It does not cut labor out of the process but simply makes the threshold decisions to begin or end management's. It requires management to bargain over the impact and implementation in either beginning or phasing out such a program.

Thank you.

Senator STEVENS. We will have our staff and representatives of the House committee staff get together here today to see if there is any way we can work out a middle ground here.

I think the difficulty, Dr. Devine, is that under the legislation no segment of the Government is compelled to go into a flexitime program. If it decides to do so on the basis of the consent of the employees and the consent must be obtained before going into one, on what justification can we have a unilateral decision that management can terminate it without the necessity of going back and obtaining the same consent or at least some kind of a recognition of the rights of the employees who agreed to that change and the plan to begin with?

Mr. DEVINE. The real difficulty I see in Congresswoman Ferraro's bill is on page 4 of the bill, section 6122(b). She has a provision there that says:

> Any program under subsection (a) of this section may be terminated by the Office of Personnel Management if it determines that the program is not in the best interest of the public, the Government, or the employees.

That statement by itself would be fine, but the critical problem is the introduction in that subsection (b), where it says:

> Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement under section 6130(a) of this title.

Section 6130(a) is the problem because that section requires that any agreement entered into between management and labor be put in a written contract. A union that wanted to make this difficult, and there are such agreements already in contracts in the Government, would require that elimination of such a program be done in such a way as to make it almost impossible to get out of it. For example, one could write in the contract that you could only end the program with binding arbitration or one could put in there that you could only end the contract with the agreement of labor, that is, not make it a bargaining issue but an absolute veto on the part of labor.

Senator STEVENS. I understood that was not the position of the House. If I understood the chairwoman's comment correctly, the right to terminate on the part of management could be preserved on the basis of specific findings that would have to be made by you or the agency head and those findings could be subject to review by the Federal Labor Relations Authority or someone to see if they were genuine as opposed to a capricious desire to change the schedule and get out of it unilaterally.

If management has the right to terminate for the reasons you suggest, and I have read your statement about the Air Force termination of the civilian employees and the Veterans' Administration situation, all of those decisions were based upon someone's firm decision that it was either that the economic efficiency of Government or the service to the public had declined or that the office was not properly maintained or its interrelationship to other offices. It would not do any good to have people in my office in Anchorage until we could reach them. The difficulty is, we have 5 hours time difference. If you have people in Alaska who are supposed to be intermeshing with the Washington scene, I can see flexitime might require them to go to work at a different time. My

people go to work at 7 in the morning so they can contact us, and it is noon here. That is flexitime to me. If we can decide we want different arrangements and they are to come in at 5 instead of 7, it is because of the efficiency of the operation. We make that decision and so notify them that there is going to be a change.

As I understood the flexitime proposal, there would be nothing wrong with management making that decision on the basis of efficiency of the system but it must be justified if appealed before some independent group like the FLRA.

What is wrong with that? What is wrong with having some place that management has to prove its point rather than just be capricious?

Mr. DEVINE. The problem is who bears the burden of proof.

Senator STEVENS. Management does. They make the decision under that.

Mr. DEVINE. But the problem would be, under the Ferraro bill, if there was a written agreement, technically management could make the decision but management would then be subject to the Impasses Panel and FLRA findings that the termination violated the contract, which would mean they were wrong.

Senator STEVENS. Not if we put it in the law specifically.

Mr. DEVINE. As I understood it, the real issue between the administration bill and the Ferraro bill is who has the presumption of being right in the decision either to begin or terminate when you go before the Impasses Panel or the Federal Labor Relations Authority. I think it is a very basic and fundamental question. Who has the presumption of being right when they go in there?

Senator STEVENS. We can take care of that. We have been through this so many times in terms of what is a sufficient amount of facts or data to have a basis for a decision. Our staffs can work that out. The real question is, does the administration agree that if flexitime was instituted by virtue of collective bargaining, there ought to be some check on a capricious unilateral determination to terminate flexitime? If you agree with that, then we can work this out; if you don't agree with that, I think you ought to send Attila back to the shop and we will think this over because I think that is a very reasonable position. You can't get into it without their consent, why should you be able to get out entirely unilaterally?

Mr. DEVINE. I think anything that is done that involves labor relations is reviewable by the Impasses Panel and the Federal Labor Relations Authority. I have no problem with them being in the review process. But in the administration's position, it is absolutely critical that this be a management right and that the presumption be on the side of management when they make that decision, and not be a joint endeavor in which convenience for employees would be treated equally with the efficient performance of the public service.

Senator STEVENS. If you modified that by saying if there is sufficient factual data to support it, the presumption is on your side, I think we've got some basis for an agreement. I can't see that you ought to arm any administrator with a presumption that he can make a decision on a capricious basis and employees have the burden to prove that he had no facts or data. I think you ought to at least provide that the administrator must state his reasons and

have a prima facie case of reasonableness for the action he is taking because by definition he couldn't get into the program unilaterally. I don't see how he can be given the right to disturb the relationship that employees have agreed to unilaterally on a capricious basis.

Mr. DEVINE. The problem, a very practical problem, is that we do have changes in administrations and philosophy. What has worked out in one administration may not be appropriate for another. It is true that management enters into the agreement, but management may change fundamentally.

Senator STEVENS. I am not going to listen to that. I have sat through so many administrations now that they come and they go, and there will be a lot more while I am here. As a practical matter we are trying to produce stability in terms of the Government. The administration can change policy but I have difficulty accepting unilateral changes in working hours and in the concepts of bargaining every time there is a change of administrations. If that were the case, we would never get anything done around here. I just don't think the Senate would agree with that at all. I certainly would never argue for it, I will tell you that. If you are going to get into something on the basis of negotiation, I don't see how you should have the right on the basis of change of administration to terminate unilaterally.

Mr. DEVINE. It is a question that these were not entered into by the current administration, and we are really talking about a tremendous expense. There are only 325,000 employees out of 2.1 million involved in this project, so not all Federal employees are in flexitime by any stretch of the imagination, but only a relatively small number of individuals. We are talking about some major changes and improvements which the administration is going along with. We think there are some major benefits to employees and we want to give those benefits to employees, but we also want to be sure that while these benefits are being provided, Federal employees are doing the public business well. We want to do what we can for our employees, but the bottom line has to be that we are doing the public's work and we are doing it efficiently. There are contracts that are bad in the Government, everybody knows it, and there are elements written into the contracts that don't let you get out. I don't see that the Government——

Senator STEVENS. There is no question that you can get out of a bad contract and the Federal Labor Relations Authority or the Impasses Panel is not going to hold you to a bad contract—that is not the problem. The question is whether you have a change in philosophy of people who don't like flexitime and say: The devil; it is too much trouble; we don't have to deal with you.

Mr. DEVINE. That is not the question.

Senator STEVENS. That is the fear that is involved. I was around here for administration changes when they changed from 20 years and went into the Eisenhower administration and they went out of that into the Kennedy administration. You see the different brooms try to sweep clean around here, and you understand why people don't like the concept that every time there is a change in administration and somebody doesn't know anything about the

background of a program and says "I don't like that," and changes it.

That is not going to happen, Don. It is not going to happen. We have got to put into this program some concept for protection, for the continuity of government, every time a new broom comes in town.

Mr. DEVINE. That is your job—to put the continuity in. It is our job to try and run the government efficiently.

Senator STEVENS. We will get them together. On that basis we can work it out. You wait. We will give you a test that is sufficient, I think, to protect management's flexibility and at the same time prevent capricious change in government just because of the change of management. That is all we can ask. I can't speak for the House, but I think they will agree to the concept. The Congresswoman's concept that she articulated—we will try to work that out in some language and try to work it out with her staff and yours and try and get this thing on the track. I don't see any reason why a new manager can say I don't like what this guy did before me, and I am going to erase it because he did it. I have seen a lot of that. I was a Presidential appointee downtown. I saw a lot of things I did thrown out and I have seen other people facing the same thing. There is no reason for that if it affects employees' rights. It is all right if it is policy decision and a new broom has to sweep the deck clean; that is his problem. But as far as the employees are concerned, their rights ought to be protected against capricious action by new management. That is what we are saying.

Mr. DEVINE. I agree with that. But remember, this was an experimental program and what most people consider flexitime is not even covered under this. Most of the flexible hours—the example you mentioned of your office in Alaska—that is not under the provision of the experiment; we were doing that before this experiment.

These experiments we are talking about are radical shifts in time, working 4 days one week and 5 the next, or 8 out of 10, all kinds of radical changes, not minor shifts in the exact time people come into work; that isn't even on the table. We are in favor, we are already doing that, and that isn't covered under this legislation. We are talking about——

Senator STEVENS. The Veterans' Administration was a 10-hour day and had the same impact.

Mr. DEVINE. We have had some problems with normal flexitime but this bill isn't talking about that.

Senator STEVENS. What we are talking about is the program pursuant to this legislation. The only way you can get into that is by consent. You agree to that. You can't impose people unilaterally.

Mr. DEVINE. Yes, absolutely. There is no question at all that on the impact and implementation part our bill allows for full union participation in the impact and implementation. The distinction is in making the decision to move in a certain direction. There is no question—and we fully support the necessity of bargaining over the impact and implementation, no matter what—the full impact and implementation.

Senator STEVENS. We have some questions we will submit to you for the record about some of these other instances, but I hope that

you will assign someone to work with Ms. Ferraro's staff and my staff today and see if we can work this out.

Mr. DEVINE. I will be happy to do so. Thank you.

[The prepared statement of Dr. Devine and responses to written questions submitted by Senator Stevens follow:]

Statement of

DONALD J. DEVINE

Director

U. S. Office of Personnel Management

before the

Subcommittee on Civil Service, Post Office and General Services, Committee on Governmental Affairs

of the

U. S. Senate

March 3, 1982

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to appear today to present the Administration's views on legislation to extend the Alternative Work Schedules (AWS) program.

The Administration supports the continued use of Alternative Work Schedules in the Federal Government. However, that support is contingent upon the presence of stronger management controls on the use of such schedules in order to ensure a maximum degree of accountability to the public and the most efficient, cost-effective and productive operation of the federal agencies and departments. To that end, on February 9, 1982, the Administration submitted to the Congress comprehensive legislation permanently authorizing

alternative work schedules in the Federal Government.

The Administration's proposed legislation permits the head of an agency, subject to OPM's regulatory authority, to authorize the use of alternative work schedules if their use would improve productivity or provide greater service to the public, while not adding to the cost of agency operations. It is the conviction of the Administration that in a period of transition, when the size and the scope of the Federal Government are being reduced, a positive emphasis on productivity, public service, and cost-effectiveness in the Federal work force is not only reasonable and prudent, but necessary. Taxpayers should expect nothing less.

A critical feature of the Administration's proposal is the provision for management's right to make the threshold decision to use an alternative work schedule and to terminate an alternative work schedule. While the entire intervening process of establishing an AWS program, including implementation and impact, should be subject to bargaining, the Administration believes that the initial use and termination of such a program should be governed by an affirmative management determination on the basis of productivity, service to the public, and cost-effectiveness.

The rationale for our legislative proposal is grounded on our experience over the past three years. As you are aware, some 325,000 Federal employees have been allowed to

vary their hours or days of work in accordance with a three-year, nationwide experiment authorized under Public Law 95-930, the Federal Employees Flexible and Compressed Work Schedules Act of 1978. That experiment ends on March 29, 1982.

The Office of Personnel Management reported the results of that experiment to the President and the Congress on November 4, 1981. While the results of that experiment were generally positive, it was not the most rigorous experiment in terms of scientific design and evaluation. Only organizations participating voluntarily were represented in the experiment; there was then no random sample of organizations in agencies and departments throughout the Federal Government. Beyond question, the experiment proved most convincingly that workers liked the flexible schedules. They liked such factors as being able to schedule appointments during normal working hours without having to take leave, or being able to match their personal needs and leisure interests to the requirements of their jobs. In short, they liked being able to choose their own hours.

As the Government's top personnel manager, Federal employee likes and dislikes are important to me. <u>But, so is getting the public's work done.</u> Thus, the question of whether alternative work schedules should become permanent is best answered, in my view, by making certain that we have a

balance between benefits to employees and beenfits to the Government, while protecting the public interest at all times.

The Administration has considered this question very carefully. And while we have concluded that permanent legislation should be enacted authorizing the use of alternative work schedules, the authority should not be as broad as that found in the experimental program or H.R. 5366.

If alternative work schedules are to be of value to the taxpayer, any permanent legislation must ensure, at a minimum, that such schedules are used only in those situations where the type of work to be done lends itself to flexible hours or staggered work weeks. Morever, these schedules must not be abused. This is the object of OPM's legislative proposal.

As the Washington Post so succinctly stated in its editorial of February 6, 1982: " OPM plans to submit legislation to make flexible work schedules a permanent feature in the bureaucracy. It is, however, wisely taking the time to make sure that proper management controls are built in and that decisions about working schedules rest on more than a worker's preference for being at work when the boss is not."

Indeed, the three-year experiment indicated that there are many situations where alternative work schedules can improve the work of Government and boost employee morale. But, these results are not automatic. While fully 85-90 percent of the employees who chose to participate in the experiment have indicated their satisfaction with it and their desire to continue, there were many instances where flexible schedules--in terms of doing the public's business--resulted in very serious negative effects. These have not gone entirely unnoticed, even amidst the general enthusiasm that has greeted the concept of AWS.

I would like to cite just a few of the examples where AWS did not work:

- o The Department of Agriculture found it necessary to terminate compressed work schedules in its Food Microbiology laboratories in Beltsville, Maryland, because employees chose not to be available on Monday and Friday, productivity declined, and service to the public decreased.

- o The Veterans Administration terminated flexible schedules in 19 regional offices. They found generally that key people were not available when they were needed to resolve immediate problems. This caused service delays and a drastic decline in productivity.

Office hours were generally extended but the resulting 10 hour days were cited as a prime cause of employee fatigue. The Veterans Administration also cited the increased cost of heating and cooling office space for longer hours while service levels actually declined.

- The Air Force terminated AWS schedules for civilian employees at 3 very different kind of worksites: a headquarters Special Investigations Unit in Washington, D. C., an Air National Guard fighter wing in Massachusetts, and a personal property shipping office in Texas. A consistent problem emerged: there was a lack of proper office coverage, and management of the work became more difficult because of insufficient supervision over the extended work days. In some cases, highly specialized technicians were not available for priority work, and there was an increase in documentation errors resulting from working extended hours on exacting tasks. Some individuals who volunteered for the program also complained of fatigue and physical strain from the extended workdays.

- The Army was compelled to terminate AWS schedules at 26 work sites for reasons very similar to those previously mentioned at Agriculture, the Veterans Administration, and the Air Force.

We must also take into account that, in some situations, more terminations would have taken place had there not been real complications with negotiated employee/management agreements. Public Law 95-390 provided for the termination of any experiments that were not in the best interest of the public, the Government, or the employees. However, we found that, once begun, it was extremely difficult to terminate those programs in work units where the experiment had been introduced through labor negotiations.

Two factors were important:

1. Employees perceived flexible work schedules as an entitlement, and;

2. The Federal Labor Relations Authority has supported not only the negotiability of termination procedures but of the actual decision to terminate as well.

Given these factors, many managers were unable to devote the sustained effort necessary to prove the case that productivity was declining or that operations were hampered.

I have cited these few examples to illustrate my point that it would be imprudent to make the experimental program permanent, without proper controls. We know that employees like flexible schedules and recognize the benefits from improved employee morale that can accrue to the Government. Again, the Administration supports making AWS permanent. However, we firmly believe that there must be limits on the circumstances in which permanent flexible work schedules may be used. Our criterion is straightforward. There simply must be sufficient management control: to decide whether AWS programs are appropriate in a given work situation, and to terminate programs that do not improve productivity or service to the public, or that increase costs to the taxpayer.

Again, I appreciate the opportunity to come before you today and I will be pleased to answer any questions you may have.

Responses to Questions Submitted to Dr. Donald J. Devine
March 3, 1982 - Hearing on Alternative Work Schedules
Subcommittee on Civil Service, Post Office
and General Services

1. Could you list instances where the controls in the current law were insufficient to terminate a bad experiment?

   One example is the State Department's Office of Security, which determined that their AWS experiments in the Washington and San Francisco Field Offices were counter-productive and that it would be in the best interest of the Government to terminate them. However, the Federal Labor Relations Authority ruled that agencies are obligated to negotiate the decision to terminate AWS experiments. Consequently, the Department of State was unable to terminate the experiments.

2. Were there any instances where an agency tried to terminate an experiment, but was not allowed?

   In addition to the State Department experiences, there was a situation at GSA where a determination was made that the continuation of AWS experiments was not in the best interest of the agency. However the Federal Labor Relations Authority, in its decision, American Federation of Government Employees, AFL-CIO, Local 2151 and General Services Administration, National Capital Region, Washington, D.C., 3 FLRA No. 37 (May 23, 1980), ruled that both the procedures and the decision to terminate were negotiable. As a result, GSA was unable to terminate its AWS programs for bargaining unit employees at that time.

3. Couldn't we control a poorly working program by granting management a unilateral right to terminate if the facts show decreased productivity or efficiency?

   Yes. This appears to generally describe the approach taken in S. 2240, as amended, which the Administration supports as a suitable compromise.

4. Isn't it possible that problems you suggest occur under any type of schedule - conventional or flexible?

   Certainly, problems such as a decrease in service or productivity can occur under any kind of work schedule. However, there are circumstances in which alternative work schedules lead to these problems. For example, in some organizations, critical work was delayed, or was done less effectively or on a more costly basis, because key employees were absent due to the alternative work schedule. As another example, some organizations found that productivity declined because of employee fatigue attributable to the longer work days under alternative work schedules.

5. Could you tell me how many experiments were terminated?

   A total of 93 experiments were terminated during the original Public Law 95-390 experimental period.

6. In another view, we understand that there is an unseen cost to terminating many of the current experiments. The current law states that credit hours - hours in excess of 40 kept for later use - must be paid off if the experiment terminates. We understand the Defense Contract Audit Agency alone, a small agency, will have a cost of 1/4 million dollars to pay these hours off. Do you have any estimate of the Government-wide cost should all experiments have to terminate?

   We do not have such an estimate. The cost of paying for unused credit hours could be significant if there were an abrupt, Government-wide termination of the overall authority for alternative work schedules. However, the maximum possible amount is ten hours per employee, which represents a little less than one half of one percent of an employee's yearly pay. Our spot samples indicate that the actual amount would be only a fraction of that maximum. Furthermore, credit hour balances could be brought down if there were enough advance notice of termination, and we would certainly encourage agencies to do this.

7. What would be the impact on Federal agencies in terms of disruptions if the current program ran out without reauthorization?

   We would not expect that, in general, there would be any serious disruption for Federal agencies as a result of the expiration of the program. However, it would be unfortunate to lose the benefits that alternative work schedules have produced in many organizations, which include increased service to the public, greater productivity, and improved employee morale.

   The most serious effect would be for individual Federal employees who have come to depend, in one way or another, on the use of alternative work schedules in the way they have arranged their hours of work. Many employees, especially mothers and single parents, find alternative work schedules very valuable in meeting both their family and work commitments, and we believe that Federal employees should continue to have this ability where it does not interfere with the agency's productivity, service to the public, or cost-effectiveness.

Senator STEVENS. Dr. Fairman.

TESTIMONY OF ROBERT L. FAIRMAN, ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. FAIRMAN. Mr. Chairman, thank you very much for the opportunity to appear before this subcommittee today to discuss this Department's experience with the alternative work schedules.

I am also pleased to speak on behalf of the Office of Personnel Management's proposed legislation authorizing alternative work schedules on a permanent basis in the Federal Government. The Department of Transportation supports the intent of this bill, that alternative work schedules be authorized only when use of such schedules will improve productivity or service to the public, and when such use would not add to the cost of agency operations.

Mr. Chairman, we have had rather extensive experience in the alternative work schedules. We have a total of 52 experiments running with over 6,000 people that were covered by these schedules, ranging from 4-10 to 5-4-9 to some very exotic schedules that were used in Alaska, a 3-12, 3-12-8 schedule by four people in a powerplant up there.

Based on the diversity of these experiments, we have concluded that the alternative work schedule can be justified——

Senator STEVENS. That small one in Alaska, that was a very small unit.

Mr. FAIRMAN. Four people.

Senator STEVENS. But it was worked out with them to begin with, wasn't it?

Mr. FAIRMAN. Yes, sir, they have been off of it for sometime. They found it was too much of a strain on them.

Senator STEVENS. That was a joint decision of management and labor to terminate?

Mr. FAIRMAN. Yes, sir, management agreed to that.

Senator STEVENS. Do you support the concept that management ought to have the right to terminate these unilaterally?

Mr. FAIRMAN. I think that the bill that the administration is proposing says that before you go into the experiment or the alternate work schedule, you must identify there is going to be a savings, increase in productivity, no additional cost, or an increase in service to the public. That same kind of language says that these savings or productivity increases have to disappear before you can cancel the alternate work schedule.

It seems to me you do have a safeguard. And in order to cancel, you have the same safeguard that you had prior to going into that.

Senator STEVENS. I understand that safeguard there, but who makes the determination that it is right, and have you had any closing of employee groups when you tried to change in the past when they didn't agree with management? What would you do if they did?

Mr. FAIRMAN. In the experiments that we had, most of the closings have been initiated by the workers themselves because they did not like them. Management has been somewhat concerned about changing them because of the 3-year experiment and we do think we will have difficulties in some areas.

This is getting away from my testimony.

Senator STEVENS. We will put your complete statement in the record.

Mr. FAIRMAN. One of the big problems, for example, the 4–10, is that most people like Mondays and Fridays off. The way we work it, you have half the office force in Mondays and half in Friday which means that the people in that office do not see each other for 3 days—some are off Monday, some are off Friday, so as a group they can talk only on Tuesday, Wednesday, and Thursday. From a management point of view, it is much more difficult to manage under an alternate work schedule system than a regular flexitime system. For instance, we have nine paid holidays a year, seven of the days fall either on a Monday or a Friday. When a holiday falls on a Friday, the employees get Thursday off as a part of the alternate work schedule, so they work only 3 days that week. They take the next Monday off, and it turns out they work only 3 days the following week.

From a management point of view, it is difficult and the safeguards that are in the administration's bill are reasonable safeguards.

Senator STEVENS. From a management point of view I would agee with you. What about the safeguards against capricious management?

Mr. FAIRMAN. I would like to think that we don't get capricious management in the Federal Government. But there are certain management rights that we have now, to hire, classify, to assign work, to make certain decisions on organizational structure. There is a guard against capricious management rights in that we can terminate the alternate work schedules only, as I read the bill, when we are not getting increased productivity, or we are not getting increased service to the public or it is causing additional cost.

Senator STEVENS. I agree, and I think that from what I understood, the Congresswoman determined the House will agree with that statement provided there is someone to determine whether those conditions actually exist.

I remember once when I handled the matter for a person in Civil Service who had been transferred from Anchorage to Atlanta. It looked like a perfectly reasonable decision to transfer that man but the person who made the transfer knew that his wife was sick and ill and could not move, so in effect it was a discharge although they had no grounds to discharge him.

You have to look behind these decisions sometimes to find out what really is motivating management. If it is a capricious decision where they don't like something the previous manager has done, then I think we have a right to set up some check and balance so that cannot happen. That is all we are saying.

I think we are in agreement with what your position is and it is a very reasonable one. And if you presume that people are acting on the basis of what the statement in the administration bill is, the findings of efficiency, of cost to the Government, service to the public, I think there is no disagreement. It is the question of when someone challenges that and says: You are really not doing it for that purpose; you are doing it for another reason. Is there any way

the employees have the right to challenge that decision? I think that is the problem. The staffs will be working on it today.

I do appreciate your appearance here today.

Thank you very much, Dr. Fairman.

[The prepared statement of Dr. Fairman, and responses to written questions by Senator Stevens follow:]

STATEMENT OF DR. ROBERT L. FAIRMAN

ASSISTANT SECRETARY FOR ADMINISTRATION

UNITED STATES DEPARTMENT OF TRANSPORTATION

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE POST OFFICE AND GENERAL SERVICES

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

MARCH 3, 1982

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to appear before your Subcommittee today to discuss this Department's experience with Alternative Work Schedules (AWS).

I am pleased to speak today on behalf of the Office of Personnel Management's (OPM) proposed legislation authorizing alternative work schedules on a permanent basis in Federal agencies. The Department of Transportation supports the intent of this bill, that alternative work schedules be authorized only when use of such schedules will improve productivity or service to the public, and when such use would not add to the cost of agency operations.

We are pleased to see the provisions in the bill which clearly give management the necessary controls over the decision making process of when alternative work schedules are implemented and terminated. As we in the

Federal service must find more efficient ways of carrying out our missions, we must also have the authority to determine the means by which that efficiency can be achieved. For that reason, we support the provisions in the proposed legislation which require that alternative work schedules only be approved within prescribed restraints. The absence of effective management rights under Public Law 95-390 led this Department to conclude that the operational problems of AWS far outweighed any derived benefits.

The Department has had extensive experience with alternative work schedules. Over 6,000 civilian employees took part in some form of alternative work schedule in the last two and one-half years. Our experiments ranged from organizations as large as the entire Coast Guard Headquarters, which required a 4-10 work schedule for all employees, to extremely small field units in the Alaska Railroad with as few as four employees. Based on the diversity of our experiments, we concluded that AWS can be justified only in situations where adequate office coverage to respond to Executive Branch needs can be assured. Management officials need clear unilateral authority to decide whether or not to install AWS which was not possible under Public Law 95-390.

In fact, the provisions of this legislation are what the Department of Transportation had in mind before we knew what OPM would be proposing in permanent legislation on alternative work schedules. In January of this year, we notified our Operating Administrations that all existing alternative work schedules would be terminated concurrently with the expiration of the experimental period at the end of March. Anticipating that some type of

permanent legislation would be passed, we then intended to consider exceptions to that policy, based essentially on the same criteria which are now contained in this proposed legislation. This legislation, particularly the emphasis on improving productivity, efficiency, and service to the public, reflects the management philosophy of our Department, and for that reason we support its enactment. A simple continuation of the current legislation, would not contribute effectively to the management goals of our Department and cannot be supported.

From a management perspective, alternative work schedules can cause serious disruption, particularly when four-day schedules are involved. Most employees who are on AWS are scheduled off on Friday or Monday in order to have a "long weekend," and therefore meetings of a full staff can only be scheduled Tuesday, Wednesday or Thursday. Many coworkers do not communicate with each other from Thursday through Tuesday, which often causes delays in completing projects or assignments. Many supervisors come to work on their day off to maintain an orderly flow of business. Employees with particular specialties often are called at home or asked to come in when their knowledge is needed. While many employees are willing to accommodate, often others have made plans and cannot be located. The already complex job of managing an office can become even more complex, and in the Washington area, clearly does not accommodate the Monday through Friday schedules of other Executive Branch agencies even the Congress.

This concludes my prepared remarks. I will be happy to answer any questions you might have at this time. For this reason the Administration endorses the management control feature of OPM's bill.

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U.S. Department of Transportation
Office of the Secretary of Transportation

Assistant Secretary for Administration

400 Seventh Street, S.W.
Washington, D.C. 20590

The Honorable Ted Stevens
Chairman, Subcommittee on Civil Service,
Post Office and General Services
United States Senate
Washington, D.C. 20510

Dear Senator Stevens:

As requested in your recent letter, I am submitting additional information to you concerning this Department's experience with Alternative Work Schedules (AWS).

I would also like to restate that we are definitely willing to consider using AWS in certain organizations. Our primary interest is to identify those organizations where the use of AWS will contribute significantly to productivity, service to the public, and cost-effectiveness. We firmly believe that in this period of budget and staff cuts this must be our primary focus.

Again, thank you for the opportunity to submit our views to your Subcommittee.

Sincerely,

Robert L. Fairman

Enclosure

Questions submitted to Dr. Robert L. Fairman
March 3, 1982 - Hearing on Alternative Work Schedules
Subcommittee on Civil Service, Post Office
and General Services

1. Can you give us specific examples of the Department's problems with various experiments such as with the Coast Guard?

   As stated in my testimony, our Department did find that from a management perspective, Alternative Work Schedules (AWS) can cause serious disruptions. Specific examples are as follows:

   1. Within the Office of the Secretary, employees had the option to work a compressed week with either 10 or 9 hour days or remain on a traditional 8 hour schedule. The variety of schedules that resulted caused serious scheduling problems; the number of days in a week when all staff members were present to conduct business often was reduced to two or three. Further, employees frequently had to "cover" absent employees' areas of responsibilities and the completed work products did not always meet acceptable levels of quality and timeliness.

   2. The United States Coast Guard (USCG) experiment also generated management problems. Of primary concern was the closing of USCG headquarters every Friday. Interaction between the various organizational components of the Department was restricted and this problem was further compounded by the variety of schedules that existed in other Department of Transportation organizations. There were instances when business requiring the participation of several organizations was limited to two or three days each week. A similar problem also existed with the USCG's external relationships and dealings with the public. We believe the public is better served by having the USCG open for business 5 days a week, 8 hours per day.

2. Can you cite any negative effects the headquarter's experiment had on the Coast Guard field facilities?

   While some of USCG's field facilities also worked on the same schedule as headquarters, many did not. For those who remained on the traditional week, the primary problem was the inability to communicate with the headquaters office on Fridays. Dealings with those field facilities working the four day week was similarly also limited to Monday through Thursday.

3. Can you explain why the Department reported to OPM that their experiments increased production or showed no change and yet now you see such a wide variety of problems?

   The evaluations submitted to OPM reflect to a large extent the views of those employees and first-line supervisors participating in the experiments. The results were based upon these employees perceptions and not upon any hard scientific analysis of data. Our decision to terminate AWS was based upon careful consideration of the survey data and the mission, structure and work operation of our entire Department. From an overall management perspective, we found that the problems inherent in AWS outweighed the derived benefits.

4. Can you explain why the current controls preclude the Department from terminating or altering poor performing experiments?

   We agree that the current legislation does allow some flexibility in terminating or altering experiments but only to the extent that management can successfully negotiate adequate management controls with their collective bargaining representatives. Absent such an agreement it would be difficult, if not impossible, to terminate or alter poor performing experiments. Our agreements contained management control clauses allowing termination.

   However, we still believe that future legislation should require that AWS be implemented only when its use would improve productivity, service to the public, or save costs. Further, the decision to use or terminate AWS consistent with established criteria must remain solely with management.

5. Can you cite any examples where a negotiated agreement precluded the Department from terminating an experiment?

   There was one experiment in the Federal Highway Administration (Portland, Oregon) that was covered by a negotiated agreement which provided for continuation of AWS. This experiment was, however, terminated with the other experiments.

Senator STEVENS. We now have Mr. Fox of GSA.

TESTIMONY OF JERALD D. FOX, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION, GENERAL SERVICES ADMINISTRATION, ACCOMPANIED BY NORMAN LINTON, DIRECTOR OF PERSONNEL

Mr. Fox. Mr. Chairman, I appreciate the opportunity to appear before you to present the views of the GSA Administrator, Mr. Gerald P. Carmen, on alternative work schedules.

The administration's proposal allows alternative work schedules to continue, but under stronger management control. We support stronger management control in all aspects of the current personnel system and believe that the real need is for some basic reforms in the personnel act itself. One of the greatest problems facing managers in the Federal Government is how to manage their most important resources, which is personnel, under the current personnel regulations. We look to this committee for leadership in addressing the basic problems with the personnel act.

Concerning AWS, during the experiments, GSA had approximately 20,000 of its approximately 35,000 employees on some form of AWS. When AWS experiments began, GSA required all participating organizations to monitor and collect data on the six impact areas specified in the law: one, the efficiency of government operations; two, mass transit facilities and traffic; three, levels of energy consumption; four, service to the public; five, increased opportunities for full-time and part-time employment; and six, individuals and families generally.

We feel that AWS has had a negative impact on GSA's ability to provide essential services. GSA is a service agency which must have sufficient multiskill staff available every day to adequately cover its operations and satisfy requirements of the client agencies and the contractors we deal with. Because of the service nature of GSA's mission, we must have telephone operators, mechanics, security guards, and skilled craftsmen available when their services are needed. This necessitates scheduling employees in certain occupations around the clock, 7 days a week and insuring adequate backup if emergencies arise.

During the period of experimentation with AWS, we made every effort to provide adequate skills coverage during the days when employees were off duty. For example, managers were encouraged to provide backups for key employees whose knowledge and expertise would be needed in their absence. We also cross-trained employees so that they could fill in while other employees were off duty. However, in the current environment of severely declining staff resources and resultant decline in the mix of workforce skills, it is exceedingly difficult and not always possible to provide backup for employees with specialized areas of expertise.

It is from the standpoint of the level of service to our client agencies that we experienced our greatest problems with AWS. Among the chief problems we found is the increased difficulty of responding in a timely manner to client agency requests or problems. A letter from the Department of Health and Human Services bringing this problem to our attention concluded with the suggestion

that GSA either return to its former 8-hour/5-day week schedule or substantially increase the size of its building management staff. In another letter, the Department of Labor observed that under AWS, emergencies or high priority requirements could only be addressed 3 days a week due to full emergency crew availability being severely constrained on Mondays and Fridays.

We also experienced increased problems with internal communications and scheduling. Differing central and regional office schedules and employee worktime made it difficult to schedule meetings or contact employees when needed. This has increased unproductive time with a corresponding decrease in productivity. We experienced particular problems in offices such as our administrative and budget areas where quick response to requests for information from OMB, Congress or top agency management is vital. The inability to provide timely staff advice and analysis can often have a negative effect on the final product.

AWS has had some limited positive influence in GSA. Short duration sick leave usage was reduced somewhat. Some employees felt that uninterrupted early morning and late afternoon hours permitted them to work more efficiently. However, positive aspects were, in our experience, offset by such factors as more employee fatigue due to a longer workday resulting in a decline in productivity. Also, with a larger number of employees off 1 day every week or every other week there are fewer days available for full service to our customer agencies. Additional record keeping was also required to maintain account of the varied work hours. Morale was stated by employees to be generally higher under AWS. Employees like the extra day off and decrease in commuting time and costs.

We have determined, then, that on balance, AWS caused a greater number of problems and fewer benefits than had been anticipated. Consequently, in September 1981, the GSA Administrator ordered all supervisors and managers removed from AWS. We are now in the process of removing all nonbargaining unit employees from AWS and will enter negotiations with representatives of bargaining unit employees for their removal from AWS.

GSA found, in terms of the effect of AWS on the six impact areas the law specified should be assessed that: One, AWS had a negative impact on the efficiency of government operations; two, some employees perceived it to have a positive impact on their commuting patterns; three, had a negative effect on the use of energy in public buildings; four, had a negative effect on service to the public; five, had little effect on increasing opportunities for full-time and part-time employment; and six, some employees perceived it to have a positive impact on their individual and family life.

To reiterate, the ability of the agency to decide under what circumstances to use AWS, or whether to use it at all, is necessary to insure management flexibility in conducting GSA's operations.

That concludes my prepared statement.

Senator STEVENS. We were provided with a profile summary of the AWS, prepared by GSA, which asked the question: "How did the participating organization evaluate the overall success of the AWS experiment?" Fifty percent of the agency responses indicated it was an overall success and 50 percent, a partial success.

. How does that fit in with your findings that found it was a failure?

Mr. Fox. What I would have to respond on that, Mr. Chairman, is that we have engaged in a number of new initiatives in GSA since that report was filed.

Senator STEVENS. This is 1981.

Mr. Fox. Yes, I agree with that. But under Administrator Carmen we have begun a program to change the basic orientation of the agency to one of greater regulatory activity and improved customer service, while decreasing the overall size of the agency and seeking significant improvement in level of service. And it is our opinion that we need all of our people working together at the same time toward that objective in order to get the efficiencies as quickly as possible.

Senator STEVENS. Did I misunderstand the administration we are dealing with? The survey indicated that 100 percent of the responses found AWS to be a success either overall or partially. Did I misunderstand what you just told me in your statement that the agency did not approve AWS?

Mr. Fox. The report that was submitted in 1981 reflected the views that were developed primarily during the previous administration and as Dr. Devine pointed out a while ago, and you, I thought, very well responded to that, the change in the administration is the key here. We are attempting to refocus GSA and make measurable quick improvement in its operation, and from that standpoint is that the viewpoint has modified.

Senator STEVENS. I misunderstood it before. I understand there has been a change from the point of view of the policymakers in the agency where flexitime is in the Government interest.

Let me apologize. Senator Pryor is here. I did not know last evening I was going to be called to this other meeting.

I appreciate your coming.

Senator PRYOR [presiding]. Thank you, Mr. Chairman. I am sorry I am so late.

My question at this point is: Should flexitime be administered to selected Federal activities in your opinion, or should it be broad based?

Mr. Fox. We support the philosophy of the bill that OPM has introduced to be selectively used where we can show improvements in productivity and decreases in cost and improve efficiency in the agency operation and we believe that to be a management decision.

Senator PRYOR. What activities do you think would be most benefited from the flexitime program?

Mr. Fox. It is our present view in GSA that we can make the kind of changes we are talking about in the quickest possible way by having all of our employees on a standard tour of duty.

Senator PRYOR. There is a question that I have which has concerned me about perceptions regarding flexitime among our constituency. I don't know if Senator Stevens raised this issue with you, but there is a perception among our constituents that flexitime for Federal employees is not good. I think if we took some sort of public opinion poll deciding whether or not people in the country favor flexitime for Federal employees, I assume it would be very negative.

I wonder if you have any comments?

Mr. FOX. I really couldn't comment on that from the standpoint of the general public. Let me address it this way. We have employees in something over 700 cities and towns across the country and we are a unique agency because we support other agencies, so our people don't only work for their own supervisors within GSA, they have to be responsive to other agencies' requirements, and it is in that area where other agencies think our responsiveness is not as good as it ought to be where you could develop a theory across the country that it is not a good thing because of that.

Senator PRYOR. You may not be prepared to discuss this at this moment, but for the record, I wonder if you might state an opinion on flexiplace.

Mr. FOX. I would be glad to submit an opinion for the record, but I am really not prepared to address that.

Senator PRYOR. If you would, why don't you state your opinion at this time?

Mr. FOX. Let me state my personal opinion on flexiplace. I think that there are areas of work in the Government generally where an individual works basically alone and is measured on his individual output of a finished product where flexiplace might have some application. And that is a personal opinion on my part.

Senator PRYOR. In your particular agency, what has been the impact on employee morale as a result of flexitime?

Mr. FOX. As I indicated in my statement, the employees generally feel that it has had a positive effect on morale.

Senator PRYOR. What would happen if the program were terminated at this time?

Mr. FOX. I would have to assume that there would be some diminution in morale, although I would prefer to assume that our program to improve the agency's actual productivity and its image are having positive effects on morale that would outweigh that, and it is that team work concept that we are striving for.

Senator PRYOR. If your legislation is not enacted by the Congress, when would the program be terminated? Does it self-destruct?

Mr. FOX. No. We took our supervisors off of it last fall, we are taking our nonbargaining unit employees off of it now, and we are entering negotiations with the unions on that subject so the timing on that would depend on the outcome of those negotiations.

Senator PRYOR. Did Mr. Linton have a comment?

Mr. LINTON. I would just like to point out that on March 31, should the legislation not be extended, we will end our experiments. We will still impact bargain with the union to move away from AWS.

Senator PRYOR. Thus far, how would you characterize the experiences that you have had within the agency in negotiating with unions on the flexitime program?

Mr. FOX. I would like to let the personnel director respond to that.

Mr. LINTON. We have found, going back when we started this process 3 years ago, that the unions were very much interested in it, that they did participate with us and that we had no problems working out some reasonable types of AWS arrangement with the union. We emphasized in most negotiated contracts that AWS was

experimental and that management had the right to terminate these experiments when it was found that it was necessary to do so. We feel that in the past few months the experiments were no longer showing the kind of productivity we wanted it to show. Therefore we are exercising the right provided in most of our contractual situations to terminate AWS.

Senator PRYOR. Mr. Fox and Mr. Linton, I have no other questions. Senator Stevens may have further written questions he would like to submit and we will give adequate time for your response to those questions.

We do appreciate your attendance and your testimony this morning.

[Mr. Fox's responses to written questions submitted by Senator Stevens follow:]

RESPONSES OF MR. FOX TO WRITTEN QUESTIONS SUBMITTED BY SENATOR STEVENS

Question 1. You state in your testimony that AWS had a negative impact on agency operations. Yet, in reports to OPM on production quality, quantity and timeliness, 100 percent of the responses showed an increase or no change in these factors. Can you explain this discrepancy?

Answer. The reports GSA submitted to the Office of Personnel Management (OPM) summarized the survey results of the perception for supervisors and employees concerning various aspects of alternative work schedules (AWS). The survey items dealt with the attitudes of individuals and their perception of the impact of AWS on their own personal and work lives as well as its impact on the operation of their organization. The particular survey item you refer to in your question dealt with the perception of the overall success of AWS. The results showed that 50 percent of the employees and supervisors felt that AWS was an overwhelming success and 50 percent felt it was a partial success. However, as many of the reports showed, on specific items dealing with (1) productivity, (2) service to the public, and (3) office coverage, the perception of supervisors and even many employees was that AWS had a negative impact.

As the experiment continued, this perception increased. Our 18-month report showed an increase in the number of supervisors expressing concern with loss of control over subordinates in their work units and in access to co-workers and subordinates. Because of concerns expressed by first level supervisors and top level executives about:

(1) loss of control over their subordinates;

(2) inability to contact co-workers and subordinates when needed;

(3) loss of productivity in some areas;

(4) complaints from client agencies about GSA's ability to respond to problems in a timely manner; and,

(5) declining staff resources which further exacerbated these problems.

The Administrator of General Services decided to terminate the AWS experiment.

The termination process was conducted in accordance with all negotiated agreements with employee unions and was accomplished in a manner that was least disruptive to agency operations.

Question 2. Do you feel you need stronger management controls in light of the fact you are now in the process of terminating the experiment throughout the agency?

Answer. Yes. We feel that control over the decision to initiate or terminate an AWS program must rest with management and should not be subject to negotiations with employee unions.

Question 3. Has a negotiated agreement precluded GSA from terminating an experiment or making acceptable accommodations? If so, can you explain the situation?

Answer. GSA has not yet terminated AWS experiments in the locations listed below pending completion of negotiations. Those areas marked with an asterisk (*) are likely to reach impasse in negotiations since the union is insisting on maintaining the AWS experiments while management seeks to terminate them.

Region 6.—Kansas City*.

Region 8.—Denver*.

Region 9.—San Francisco*.

Region 10.—Auburn, WA.
Central Office.—National Archives and Records Service*.

Senator PRYOR. Now we will call our next witness, Ms. Waelder.

Ms. Waelder is the general counsel for the National Federation of Federal Employees. I understand you have a statement this morning for the committee.

TESTIMONY OF CATHERINE WAELDER, GENERAL COUNSEL, NATIONAL FEDERATION OF FEDERAL EMPLOYEES, ACCOMPANIED BY ELAYNE TEMPEL, LABOR RELATIONS SPECIALIST, AND PATRICIA THOMAS, LEGISLATIVE LIAISON

Ms. WAELDER. Yes; good morning.

We have submitted the statement for the record, Mr. Chairman, the same statement we submitted in support of Representative Ferraro's bill, H.R. 5366, in the House.

With your indulgence, I would prefer not to go over the same statement again as I believe it is in the record before you. Perhaps, what I would prefer to do is give you some general comments myself on how we view the program and perhaps respond to some of the statements made by the earlier witnesses. I would then like to ask Elayne Tempel, to my left, a labor relations specialist with our organization, to respond more specifically to some of the situations raised by the General Services Administration. Also, I failed to introduce to my right, Patricia Thomas, our legislative liaison.

Senator PRYOR. We welcome you and your colleagues this morning.

Ms. WAELDER. Senator, NFFE has been a long supporter of flexible and compressed work experiments; we supported H.R. 5366 in the House. We do want to see the provisions of the alternative work schedule program continued in permanent legislation.

Our experience has been that the flexible and compressed workweek has alleviated problems concerning tardiness, frequent use of leave, utilization of equipment, and increased productivity. Efficiency and the longer hours have also increased public access to business and alleviated commuting over a longer period of time, in the morning and evening rush hours.

In face of the overwhelmingly favorable report of the agencies reporting to OPM, we were surprised to find such a negative response on OPM's part to the continuation of the program as it has existed over the past 3 years. I think it can be stated accurately that where management complains of individual instances where an agency has worked on a compressed workweek schedule and has too few employees that work on a Monday and Friday, that this is not an inherent problem with the compressed workweek program or with whether an agency or its components should or should not be on that program. That is management's problem with how the compressed workweek schedule is implemented.

The compressed workweek schedule can be implemented in such a fashion that employees who need to be there on given days are there, that employees who are participants in the program can be counted on to be there, say, every Monday through Thursday in set hours.

The question of how much flexibility an agency can have in allowing employees to choose on an ad hoc basis the hours they come in, which hours they are off, is something that is subject to the control of the system. It need not be set up in the broadest flexible sense. If that kind of framework is in a given agency, that doesn't mean the alternate work schedule program doesn't work in that agency. The new controls sought by OPM and GSA include a need to show a benefit to productivity before starting a flexibile or compressed workweek program. I submit this is impractical on its face. If you do not yet have a program in place, there is no way that you are going to be able to show before you institute such a program that this will increase productivity or will increase efficiency of service to the public.

Regarding the administration's proposal on negotiations and the scope of negotiations of compressed workweek and flexible hours programs with unions, I would like to take issue with some of the statements made by Director Devine this morning, as I understood them.

I believe, Senator, that the Director soft-peddled the intent of the administration's bill with respect to its impact on negotiations with unions. The legislative proposal submitted by OPM would characterize the institution or termination of a compressed workweek and an alternate work schedule program as a reserved management right. A reserved management right is a good deal more than a mere presumption that the agency has some valid basis, if they decide that a compressed workweek experiment should terminate, that they should be given some presumption in favor of this determination. We do not favor such a presumption. We don't think there should be a presumption in that favor, but it reserves management's right. It is a good deal more than that, it is a stonewall. Reserving management's right means that local management, agency managers, do not even have the authority to talk with the union about whether or not to begin or to stop a compressed workweek experiment. They may not even deal with the union; it is absolutely precluded.

I also wish to respond to his statement that flexitime has been in existence long before the compressed workweek and would not be affected by the administration's proposal. The first part of his statement is correct. Flexitime proposals were in effect before the alternate work schedule program was instituted 3 years ago, and they did not need the authorization, changing the 8-hour timeframe of the day, to renegotiate it. But, I believe their new proposal does more than just affect compressed workweeks. I believe it is also bringing into its umbrella of reserve management right the institution and termination of flexible work schedule. So, it is more than erasing the experiment we had over the last 3 years, it is also taking back some of what had been readily negotiated prior to that time.

Further, with respect to negotiations where the Director said that once management would make a determination to begin or to terminate a compressed workweek experiment, that this would be fully subject to the impact and implementation bargaining with the union thereafter. I think that the Director left the impression that the program would not be implemented if the union did not agree,

that once management made a threshold determination that the program should be implemented, it would then be totally subject to implementation bargaining, leaving the presumption that if the union didn't agree with the program as management wished to institute it, it would not be instituted. That is not the case. If you have a reserved management right, if management wished to institute the program unilaterally under this proposal, they can do so. The union's right would enable them to exercise a choice to try to reach agreement with management over how the program would be implemented and how it would affect the employees who are going to be placed on such a program. It would not allow them to say this program should not be implemented for this person or this unit. That choice is taken away when you make that a reserve management right. So management could impose the program or terminate the program, really on their terms, and leave the union to try to repair the damage and their lost right.

Finally, with respect to negotiations, I would just submit that at this time there is little enough that is subject to bargaining in the Federal program as it is. I think Federal managers should trust their skills at the bargaining table more instead of seeking to create new barriers and new shields where they would not even have to negotiate with the union. There is no reason why they cannot negotiate in such a fashion as to protect their rights. The system is stacked in their favor as it is and they should be able to trust their skills at the bargaining table a good deal more than they do at this time.

Regarding our specific concerns with the program, Senator, NFFE represents 31 locals in the GSA, covering 5,000 to 6,000 employees. I would like to turn to Elayne Tempel and let her explain what our experience has been.

Senator PRYOR. Let me mention that I, too, have an appointment coming up in a few moments. If it is possible, I would appreciate it if you would condense your statement.

Ms. TEMPEL. I have some information on specific instances from our locals on how they think efficiency is improved by flexitime. We have a worker in the central office of GSA who is primarily involved in research analysis. He starts work at 7 a.m. and is on a compressed work week. He has 1 hour before the normal starting time at 8 a.m. which is his quietest hour when he can catch up on his work from the day before and reschedule it, and he finds himself more productive. A part of that, he claims, is based on the fact that he comes to work more refreshed because he beats a lot of the rush traffic by starting earlier.

We have locals in the Forest Service where the compressed workweek has been very valuable to efficiency at their workplace. Mount Baker Snoqualmie National Forest allows seasonal field work of 4 days, 10-hour schedule. Many of the employees work at remote worksites. On a compressed schedule they can work 10 hours continuously at their remote duty station. On the regular schedule of 8 hours a day, 5 days a week they can only work 5 hours.

Another thing I think is very important for those seasonal workers is that the workers who are working 180-day appointments can

work up to 11 months on a 4–10 schedule. On a regular 40-hour workweek, 5 days a week, they can only work 9.

Morale is very important and has been closely attached to efficiency and productivity. The workers in the Willamette National Forest were surveyed about the compressed week program and flexitime and one of the questions they were asked was, "How would you rate your morale?" Zero was the lowest, 10 was the highest. For an 8-hour, 5-day week the average was 4.25; for the AWS system the average rating was 8.55. They were asked, "What would happen if we change back from AWS system to the 40-hour, 5-day week?", and the answer was 2.66.

Senator PRYOR. You mean morale would fall to 2.66?

Ms. TEMPEL. Yes, most of the locals that I have been hearing from, and I have been hearing from quite a few this last month—the average, I would say, is three phone calls a day on just this subject—indicated that morale is the strongest and the most important point to them.

Senator PRYOR. You mentioned some of the positive aspects of the program. Would you share with the committee any of the negatives you picked up?

Ms. TEMPEL. Most of the negative answers I got back from our locals were that managers do not see that the work is scheduled properly under the compressed workweek or the flexitime schedule. Managers can make sure that the work is covered but oftentimes, the AWS is loosely scheduled and the organization of the scheduling is poor. Some workers feel that when they start, if a worker is gone for the day, it creates a problem. Most of our workers work in departments where, if you are gone for the day, your teammate or your coworker can share the responsibility for the questions you may receive or the work you might have to do.

I didn't find many problems from the workers' point of view except they are afraid the program may end. On the Willamette National Forest, the supervisor of that forest doesn't like the compressed schedule or flexitime.

Senator PRYOR. In your opinion, what would be the result of the passage of the administration's present legislation with the increased management controls which they have proposed to the Congress?

Ms. TEMPEL. I think the union would go to the table and request a flexible work schedule and management would say, "No, I don't like it," without being able to produce any reasons. Once a subject gets into the reserve management right area, it becomes unspeakable in the first place. If it is in the area where management has the option to negotiate at management's option, it also becomes unspeakable. Management says, "That is reserve management right, or it is an optional area and we are not allowing that option."

Senator PRYOR. Has GSA terminated any experiments thus far which cover the unit which your organization would represent?

Ms. TEMPEL. Local 1642, which is a GSA unit in town here, had an agreement that management could terminate the compressed workweek. Management did, and they switched the employees to flexitime. I am not sure how many months ago this was. When they did that, workers who were using their extra day off from work to advance their education, who were going to classes at

night and using that Friday or Monday to study, had to cut back on the amount of education they were trying to get in.

The biggest problem for local 1642, when they went off the compressed workweek, was the ability of the workers to arrange car pooling. Most of them have neighbors who are Federal workers but work in different agencies, and with only the flexitime schedules they couldn't commute.

Senator PRYOR. What were the reasons GSA gave for the termination?

Ms. TEMPEL. They gave the reason that they had trouble getting a hold of specific individuals in specific positions—like the labor relations specialist was off on a Friday. Sometimes a problem arose and the person was off and that somehow created a void.

One of their biggest problems was that the Administrator's office would call and he couldn't find who he was looking for and that irritated him because the worker was having a day off.

Senator PRYOR. I have no further questions.

Would either of you have any final statements or suggestions?

Ms. WAELDER. May I suggest that in working closely with representatives of the House staff, that the House bill be used as the basis for whatever resolution is reached among the group of you.

Senator PRYOR. We deeply appreciate your testimony and your appearance. Senator Stevens may have additional questions and we will leave the record open the appropriate time for those questions to be added as well as your responses to them. Thank you.

[Ms. Waelder's prepared statement and responses to written questions submitted by Senator Stevens follow:]

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SERVING FEDERAL EMPLOYEES AND THE NATION SINCE 1917

STATEMENT BY THE

NATIONAL FEDERATION OF FEDERAL EMPLOYEES

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES,

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

ON

THE PERMANENT AUTHORIZATION

OF THE

ALTERNATIVE WORK SCHEDULES PROGRAM

MARCH 3, 1982

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to present the views of the National Federation of Federal Employees on an issue which is of considerable importance to our members - the permanent authorization of the Alternative Work Schedules (AWS) program.

NFFE has long been a supporter of the concept of the compressed workweek and flexitime. In fact, our membership has mandated its leadership since 1976 to advocate the employee right to negotiate flexible work schedules in collective bargaining contracts. We feel there are fewer abuses of flexible schedules by management if the bases of the schedule limitations are established in negotiated agreements. Our main concern with the reauthorization of the AWS program rests in the necessity for a continued quarantee that flexitime and the compressed workweek remain negotiable items to be bargained in good faith at the initiation of either management or labor.

NFFE has been interested in the subject of flexible work schedules for a number of years because we believe that the Government should set an example as the model employer. Over the last few decades, the competition and demands of the labor force have changed in response to altered lifestyles. In an effort to adapt, private industry in general has recognized and responded to the new workforce by experimenting with more flexible work schedules. The experiments began in Germany and proved

successful enough to warrant their extension to the work force of many other countries. In fact, a decade ago, flexitime schedules had become so popular in Europe that 50 percent of the white-collar workers in Germany, over 35 percent in France and over 40 percent in Switzerland were using flexitime.

The United States has only recently begun to implement compressed work schedules and flexitime, but their popularity has risen steadily. Between 1970 and 1978, the number of private sector companies utilizing compressed schedules rose from 70 to 10,000, with an aggregate of one million workers participating. Seven million additional private sector employees were using flexible schedules by 1978.

Two basic forms of experimental work schedules (flexitime and the compressed workweek) have been developed to encourage greater participation by offering programs which cater to different employee needs. The flexitime schedule is comprised of a basic "core" time (hours of the workday in which employees are required to be at work) and "flexible" time (hours which can be altered within a given time frame). For example, the employees may select their hour of arrival and departure within the "flexible" time band as long as they are present on the worksite at the required time. The compressed workweek differs in that the employees are not required to work the traditional 8 hour/5 days a week schedule, but may instead fulfill the work requirement

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by working a greater number of hours per day so that a day without work may be taken.

Many problems between labor and management have been resolved as a result of the availability and increased use of flexible work schedules. Friction between the two groups arising from tardiness, frequent use of leave, and utilization of equipment have been substantially reduced; consequently, morale and productivity have increased dramatically. There have been other benefits as well such as the public's increased access to business and the easing of rush-hour traffic.

Despite the success of a flexible schedule within the private sector, however, it was some time before similar programs were extended to the public sector. Specific Title 5 and Fair Labor Standards Act (FLSA) provisions dealing with overtime, premium pay, and hours of work prevented experimentation with new work hours and workweeks. Yet, the labor force changes prevalent within the private sector were also occurring in the public sector, and problems which merely required the simple solution of flexible work schedules were perpetuated.

Fortunately, Congress finally recognized the need to extend the availability of such work schedules to the public labor force. In 1978, Public Law 95-390 was signed authorizing the

establishment of a three-year experiment, which came to be known as the AWS experimental program, to test the applicability of flexitime and the compressed workweek within the Federal workforce. Section 2 of the law, which makes note of congressional findings on the issue, stated,

> "The Congress finds that new trends in the usage of 4-day workweeks, flexible work hours, and other variations in workday and workweek schedules in the private sector appear to show sufficient promise to warrant carefully designed, controlled, and evaluated experimentation by Federal agencies over a 3-year period to determine whether and in what situations such varied work schedules can be successfully used by Federal agencies on a PERMANENT BASIS" (emphasis added).

I have emphasized the words "permanent basis" because I feel that it was undoubtedly the intent of Congress to permanently authorize the availability of these programs pending their successful evaluation.

Not only the Office of Personnel Management but also NFFE members who have actually participated in the AWS experiments report favorably on the outcome of the new flexible workweek.

Required by Congress to evaluate the AWS programs, OPM compiled an Interim Report to the President and Congress in September 1981 (#PP 60-19) which analyzed the effectiveness of the experiments. While a number of problems arose, they were mainly associated with the experimental nature of the program and its initial administration. The OPM report, however, conclusively determined that the net result of the new flexible work schedules has been positive. I would, therefore, concur with its finding that the sometimes negative input from a small amount of participating organizations must not obscure the fact that data (compiled by OPM) "...overwhelmingly suggest that the benefits derived from reducing unproductive staff-time and enhancing productivity among the large majority of experimenting organizations far out-weigh the few problems encountered in administering AWS programs."

The positive proof of the success and popularity of the AWS can be evidenced in the overall response to the experiments. OPM concluded that of the approximately 1500 participating organizations, 37 percent rated the AWS program as positive overall; 36 percent rated it more positive than negative; 16 percent rated it equally as positive as negative; 9 percent as more negative than positive and only 2 percent gave it an overall negative rating. Additionally, over 83 prcent of the agencies plan to continue the AWS program until its expiration in March or beyond if legislation is enacted.

Public Law 95-390 required OPM to study a number of specific areas (efficiency of Government operations, impact on mass transportation facilities, energy consumption, public service, increased opportunities for full and part-time employment, and quality of life of both employees and their families). The results of these specific evaluations were also overwhelmingly positive. It was proven that the use of flexible work schedules led to tangible benefits for not only the employer but also the employee and the general public.

At this time, I would like to briefly note the benefits accrued under the AWS experiments not only in terms of productivity but also in human terms. Statistics may be useful to prove a point, but I believe the point can be better realized when the human factor is considered.

The AWS experiment has extended greater employment control to both the employer and employee although in different areas. One of the most significant results for management has been the reduction of tardiness which can contribute to productivity loss. Organizational effectiveness has also been improved by ensuring increased business hours which benefit not only the public but also other government units and organizations that might require the services of the participating agency. The potential for

energy savings can also be attributed to the AWS program if buildings are closed during nonwork hours. Shut-down and start-up costs can also be reduced with good managerial oversight. In addition, the Government's ability to attract a skilled workforce could improve if the AWS program is permanently extended. The flexible work schedules have the potential to encourage talented and skilled personnel, who would ordinarily be unable to offer their skills and talents to public service, to enter into the Federal workforce. The benefits accrued to the public in all of the aforementioned areas are implicit - the public can be better served.

To the employee who chooses to participate in the AWS program, the benefits are worthwhile and have the snowball effect of also positively influencing the function of the agency. Foremost among the benefits is the improvement of morale which is the cumulative result of gaining a new independance over both work and private life. Time can be arranged to accomplish personal business, better attend to family needs, and better match interests outside the job with work requirements. For example, more time can be devoted to additional schooling that would enhance work performance; the result can be beneficial for both the employee and employer. It would certainly be a shame to turn our backs upon the multitude of benefits which can and have been realized as a result of the AWS program.

The personal and organizational evaluations which have been made of the flexible work schedules have been overwhelmingly positive. Both private industry and the Federal Government have recognized that the workplace and the workforce are not static and adjustments have been made and favorably received by all involved. In acknowledging the success of the AWS program, OPM itself recommended that Congress enact permanent legislation authorizing the continued use of these programs. However, the Administration is proposing severe restrictions which would alter the basic nature of the AWS programs and which NFFE could therefore not support.

Fortunately, legislation has recently been introduced by Representative Geraldine Ferraro to permanently authorize flexible work schedules. The bill, H.R. 5366, will certainly be favorably received by the hundreds of thousands of Federal employees who participated in the AWS experiment, as well as the public which relies upon government services. On behalf of our members, I would like to extend our support for H.R. 5366. However, while we are in favor of the bill, I hope that it will continue to ensure the negotiability of the AWS program and any grievances which could arise out of coercion associated with participation in the program. Additionally, employees within a unit should have an opportunity to initiate participation in these programs equal to management, unless it can be

quantitatively and qualitatively proven to have an adverse affect on the function of the agency. Flexible work schedules should not be made solely a management right. H.R. 5366 currently contains provisions to terminate the flexible work schedule should it "not be in the best interest of the public, Government or employees," so I feel that in permanently extending the authorizing legislation, the framework would be protective enough to facilitate a more liberal policy with regard to participation in the AWS program.

I hope that the members of the Subcommittee will take into account NFFE's support for the program's permanent authorization provided for by H.R. 5366.

NATIONAL FEDERATION OF FEDERAL EMPLOYEES

JAMES M. PEIRCE • PRESIDENT

ABRAHAM ORLOFSKY • SECRETARY TREASURER

1016 16th St., N.W. WASHINGTON, D.C. 20036 PH: 202-862-4400

SERVING THE FEDERAL EMPLOYEE SINCE 1917

In reply refer to: Legis-PT-28

April 30, 1982

The Honorable Ted Stevens
Chairman, Subcommittee on Civil Service,
Post Office and Government Services
Senate Committee on Government Affairs
57 Capitol Hill Apartments
Washington, D.C. 20510

Dear Senator Stevens:

Thank you for contacting me concerning the National Federation of Federal Employees' experience with the Alternative Work Schedules program (AWS) within the General Services Administration. I have received your questions and I hope the following answers will provide you with the information you need.

NFFE represents several collective bargaining units within the GSA which have been required to end their participation in the AWS experiment. In fact, the compressed workweek has been terminated for the GSA central office in Washington, D.C. (NFFE Locals 1705 and 1800) and for the GSA office in Chicago, Illinois (NFFE Local 3007). Notification of the GSA's intent to eliminate all AWS programs was sent to NFFE President Jim Peirce on March 3, 1982, and I am enclosing a copy of the notice for your information.

A number of our Locals were forced to end their participation in the compressed workweek as a result of specific contract language. However, a few Local units were permitted to continue the program because restrictions had not been included into their contracts. I am also enclosing a copy of contract language requiring the termination of the compressed workweek for two NFFE Locals, Local 1705 and Local 1800, as well as language permitting continuation for NFFE Local 1634.

The problems within the AWS experiment to which the GSA has referred in testimony do not stem from the experiment itself but, rather, the administration of the program. The scheduling of work hours and work days could be better managed to ensure that employees within an office are not absent on the same day. The problems mentioned by the Associate Administrator for Administration, Jerald Fox, could have been accommodated through

Vice Presidents: Region 1, Paul C. McNaught, Woburn, Mass. • Region 2, J. Richard Hall, New York, N.Y. • Region 3, A. B. Reynolds, Panama City, Fla. • Region 4, Richard E. Roman, Tarlton, Ohio • Region 5, Prospero (Pros) Chavez, Albuquerque, N.M. • Region 6, Marlene Steffen, Vista, Cal. • Region 7, Albert W. Lampton, Richland, Wash. • Region 8, Gary W. Divine, Independence, Mo. • Region 9, Charles G. Smith, Cincinnati, Ohio

better management of the program. I certainly do not believe that the solution to the GSA's stated problems lies in the termination of a program which Mr. Fox himself acknowledged to have positive effects.

I hope that the information and material enclosed will be useful to you. Please do not hesitate to call upon me again for additional information.

Sincerely,

Catherine Waelder
General Counsel

Encl: 1) Notification of AWS Termination
2) Contract Language re: AWS

General Services Administration Washington, DC 20405

----ENCLOSURE 1----

MAR 3 1982

Mr. James M. Peirce
President, National Federation
of Federal Employees
1016 16th Street NW
Washington, DC 20036

Dear Mr. Peirce:

The purpose of this letter is to inform you of our intention to eliminate Alternative Work Schedules (AWS) and Flexitime in GSA. This decision was made to correct the problems caused by the combination of reduced employment and AWS (including Flexitime). This combination does not allow us to provide sufficient staffing for our offices throughout the country. We will, of course, provide exceptions for those locations that can show a direct savings by the continued use of AWS or Flexitime.

Please be assured that in accomplishing this objective we will fulfill our labor-management relations obligations. We will notify your local representatives and offer them the opportunity to negotiate on this issue before taking any action involving your local bargaining units.

If you have any questions, please call Bill Conley of our Employee and Labor Relations Division, on 523-4686.

Sincerely,

Norman L. Linton

NORMAN L. LINTON
Director of Personnel

General Services Administration
National Capital Region
Washington, DC 20407

12 MAR 1982

Ms. Mary L. Crawford
President, Local 1800
National Federation of
Federal Employees
317 50th Street, NE. #31
Washington, DC 20019

Dear Ms. Crawford:

This is in further regard to the termination of the 3 year period of experimentation with alternative work schedules (AWS) authorized by Public Law 95-390.

Although you were previously notified that the AWS experiment in the National Capital Region would terminate on March 20, 1982, please be advised that the termination date has been extended to March 28, 1982.

Attached for your information is a copy of a letter signed by the Regional Administrator which provides information concerning the transition from AWS to standard tours of duty.

If you have any questions about this matter, please contact my office.

Sincerely,

E. P. Denney

EDWARD P. DENNEY
Labor-Management
Relations Officer

Enclosure

General Services Administration — National Capital Region — Washington, D.C. 20407

MAR 10 1982

Reply to Attn of: Regional Administrator (WA)

Subject: Termination of the Regional Alternative Work Schedules (AWS) Experiment

Heads of Regional Services and Staff Offices
WC WD WI WP WT WH WL WA WAa

We have recently received a letter from the Associate Administrator for Operations informing us of the Administrator's objective to eliminate Alternative Work Schedules (AWS) and flexitime experiments currently in effect agency-wide.

To accomplish this objective all Alternative Work Schedules, including compressed schedules and flexitime schedules within the National Capital Region (NCR) will terminate March 28, 1982. Accordingly, all employees are to revert to their standard tours of duty that their present work units were on previous to implementation of the AWS experiment on September 23, 1979 in NCR.

This will present no transition problems for employees on a 4-10 compressed schedule or 5-8 flexitime schedule as they will have worked 40 hours during the first week of the payperiod beginning March 21, 1982. Supervisors of employees on a 5-4/9 compressed schedule should make the necessary adjustments to those schedules during the period March 21 through 27, 1982, to ensure that employees work no more than 40 hours. It is permissible for employees to work some 9 hour days during the week of March 21-27, 1982. However, employees normally scheduled to work 44 or 45 hours should have their hours decreased to 40 hours for that week. Employees normally scheduled to work 35 or 36 hours should have their hours increased to 40 hours for that week. For the second week of the payperiod, March 2 through April 3, 1982, all employees must work five 8-hour days. The total hours of work and/or leave for employees on the 4-10 and the 5-4/9 compressed schedules must equal 80 hours for the payperiod March 21 through April 3, 1982. The new tours of duty should be documented on employees' Time and Attendance cards, GSA form 516-8.

The Regional GSA Delegation of Authority Manual, [illegible] Chapter 2-15, provides for the adjustment of working hours of individual employees where special justification shows it to be in the best interest of GSA, or where accommodating individual needs of employees for legitimate reasons will not impede the work of the agency. Requests for individual exceptions to the post-AWS working hours in effect for a given organizational segment must be submitted by employees and reviewed by supervisors and managers in accordance with Chapter 2-15 of the Manual.

Questions concerning the above should be directed to the Personnel Division, Employee Relations Branch, Bldg. 1126, Room [illegible], or by telephone at 472-1823.

Bertrand G. Berube
Regional Administrator

ARTICLE 11

HOURS OF WORK, LUNCH AND REST PERIODS

11.1 The Union recognizes the right of the Employer to schedule employees as necessary to carry out the mission of the agency. Unit employees will be assigned to tours of duty in accordance with the terms and conditions of their employment, and that such tours of duty will be construed as the hours of a single workday, and shall remain in effect unless changed by the Employer as provided in this Article.

11.2 The Employer recognizes the right of the Union, upon request, to bargain on the impact on employees affected by a Management decision. It is agreed that the Memorandum of Understanding between the Employer and the Union dated September 26, 1979, concerning an alternative work schedule experiment, shall remain in effect until March 8, 1982, subject to termination by law or by the Employer as provided in the Memorandum of Understanding. If the experiment is terminated, the Unit employees' hours of duty will revert to their hours of duty in existence prior to the experiment.

It is understood that should the law extend the alternative work schedule experiment, all terms and conditions of the September 26, 1979, Memorandum of Understanding will be extended until the experiment is terminated.

11.3 Except in emergency situations, the Employer agrees to notify Unit employees of a change in the employee's tour of duty 72 hours prior to the beginning of the administrative work week that a change in shift becomes effective. Such notification shall be in writing and shall normally be presented to the employee(s) affected not later than the close of business on the Wednesday preceding the Sunday of the week that such a change becomes effective. In the event that employees are absent from duty in an approved leave status between the date the Employer determines that a change in tour of duty is required and the close of business on the Wednesday preceding the Sunday of the week that such a change becomes effective, the Employer agrees to: (1) attempt to contact the employee by phone; and (2) mail the notice letter to the employee's last home address of record prior to the beginning of the 72-hour notice period. Once notified of a change in tour of duty in accordance with this Article, employees shall be required to report to the new tour of duty as scheduled, unless the employee's supervisor grants permission otherwise.

Section 2. JOINT NOTIFICATION: When this Agreement becomes effective, the Parties shall distribute a joint memorandum to all bargaining unit Employees and appropriate management officials and supervisors announcing the signing of this Agreement, and the availability of copies of this Agreement, and any other matters that the Parties agree should be included.

Article XVII

BASIC WORK REQUIREMENTS AND HOURS OF WORK

Section 1. The basic forty (40) hour work week is scheduled on five 8-hour days, Monday through Friday. For those employees participating in the 5-4-9 compressed work schedule, the basic work requirement is eighty (80) hours per pay period, consisting of eight 9-hour days and one 8-hour day. When changes are necessitated by operational requirements, the Union shall be advised of the changes and the reasons therefor.

Section 2. On a temporary basis, not to exceed March 31, 1982, the hours of work are adjusted to meet one of the experimental schedules under the Federal Employee Flexible and Compressed Work Schedules Act of 1978, P.L. 95-390, with exceptions for hardship as authorized by management. The Administrator has the authority to terminate the experiment at any time.

Section 3. Work schedules may be adjusted for religious observances in accordance with Title IV, P.L. 95-390 and other applicable regulations and Agency policy.

GSA LOCAL 1800 -- N.F.F.E.

This agreement between the General Services Administration, National Capital Region, and National Federation of Federal Employees, Local 1800, is entered into in accordance with the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (Public Law 95-390):

1. Except for those expressly excluded, the Union agrees that all employees in the bargaining unit(s) represented by the Union may participate in the alternative work schedules program. However, no employee will be required to participate in the program.

2. The program shall be implemented as described in the attached memorandum.

3. The program shall be for a temporary period only, and may not extend beyond ~~April~~ August 28, 1982, (per telcon 8-24-79).

4. Any employee or group of employees may be excluded from participation in the program if it is determined that any organization within the region is being disrupted in carrying out its function or is incurring unreasonable additional costs because of such participation, or if it is determined that hours of operation must be curtailed due to energy problems

5. Employees in the following positions shall not be included in the program:

a. Computer Operators, Computer Specialists, Data Clerks, Production Control Clerks and ADP Tape Librarians in the Data Systems Division.

b. Offset Pressmen working the 6 a.m. - 2:30 p.m. and the 9:30 a.m. - 6 p.m. shifts in the Printing and Distribution Branch.

c. Electronic Technicians, General Communications Operators and Teletypists of the Automated Data and Telecommunications Service.

d. All employees assigned to Self-Service Stores of the Federal Supply Service.

e. Engineering Technicians assigned to the Construction Management Division.

f. Clerks and Clerk-Typists assigned to District and Zone offices TAC, CEU, and NCC of the Federal Protective Division.

6. Although an employee's schedule, once chosen and approved, becomes "mandatory", each employee will be given the opportunity to request a change at the end of the first 90 days of the program. Thereafter, there will be an "open period" to request schedule changes at 6-month intervals.

For the Employer:

E J Denno
8-28-79
(Date)

For the Union:

Thomas S. Crawford
8-23-79
(Date)

Senator PRYOR. The hearing will now be adjourned.

[Whereupon, at 10:30 a.m., the subcommittee recessed, to reconvene subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Union Calendar No. 261

97TH CONGRESS
2D SESSION

H. R. 5366

[Report No. 97–433]

To amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1982

Ms. FERRARO (for herself, Mr. DANIELSON, Mr. SOLARZ, Mr. HOYER, Ms. OAKAR, Mr. WOLF, Mr. CLAY, Mr. LELAND, Mrs. SCHROEDER, Mr. SCHUMER, and Mr. GARCIA) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

FEBRUARY 22, 1982

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Insert the part printed in italic]

A BILL

To amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1982".

94-333 O - 82 - 5

SEC. 2. Chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting "SUBCHAPTER I—GENERAL PROVISIONS" before section 6101, and by inserting after section 6106 the following new subchapter:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

"§ 6121. Definitions

"For purposes of this subchapter—

"(1) 'agency' means an Executive agency and a military department;

"(2) 'employee' has the meaning given it by section 2105 of this title;

"(3) 'basic work requirement' means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise;

"(4) 'credit hours' means any hours, within a flexible schedule established under section 6122 of this title, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday;

"(5) 'compressed schedule' means—

"(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

"(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays;

"(6) 'overtime hours', when used with respect to flexible schedule programs under sections 6122 through 6126 of this title, means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours; and

"(7) 'overtime hours', when used with respect to compressed schedule programs under sections 6127 and 6128 of this title, means any hours in excess of those specified hours which constitute the compressed schedule.

"§ 6122. Flexible schedules; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish, in accordance with this subchapter, programs which allow the use of flexible schedules which include—

"(1) designated hours and days during which an employee on such a schedule must be present for work; and

"(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

"(b) Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement under section 6130*(a)* of this title—

"(1) any program under subsection (a) of this section may be terminated by the Office of Personnel Management if it determines that the program is not in the best interest of the public, the Government, or the employees; or

"(2) if the head of an agency determines that any organization within the agency which is participating in a program under subsection (a) is being substantially disrupted in carrying out its functions or is incurring

additional costs because of such participation, such agency head may—

"(A) restrict the employees' choice of arrival and departure time,

"(B) restrict the use of credit hours, or

"(C) exclude from such program any employee or group of employees.

"§ 6123. Flexible schedules; computation of premium pay

"(a) For purposes of determining compensation for overtime hours in the case of an employee participating in a program under section 6122 of this title—

"(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act, as amended, or any other provision of law; or

"(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

"(b) Notwithstanding the provisions of law referred to in paragraph (1) of subsection (a), an employee shall not be entitled to be compensated for credit hours worked except to the

extent authorized under section 6126 of this title or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

"(c)(1) Notwithstanding section 5545(a) of this title, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which such premium pay is otherwise authorized; except that—

"(A) if an employee is on a flexible schedule under which—

"(i) the number of hours during which such employee must be present for work, plus

"(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the night work hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

"(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or

under such section 5545(a), such premium pay shall be paid for such hours so designated.

"(2) Notwithstanding section 5343(f) of this title, and section 4107(e)(2) of title 38, night differential will not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized; except that such differential shall be paid to an employee on a flexible schedule under this subchapter—

"(A) in the case of an employee subject to such section 5343(f), for which all or a majority of the hours of such schedule for any day fall between the hours specified in such section, or

"(B) in the case of an employee subject to such section 4107(e)(2), for which 4 hours of such schedule fall between the hours specified in such section.

"§ 6124. Flexible schedules; holidays

"Notwithstanding sections 6103 and 6104 of this title, if any employee on a flexible schedule under section 6122 of this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work require-

ment as determined under regulations prescribed by the Office of Personnel Management).

"§ 6125. Flexible schedules; time-recording devices

"Notwithstanding section 6106 of this title, the Office of Personnel Management or an agency may use recording clocks as part of programs under section 6122 of this title.

"§ 6126. Flexible schedules; credit hours; accumulation and compensation

"(a) Subject to any limitation prescribed by the Office of Personnel Management or the agency, a full-time employee on a flexible schedule can accumulate not more than 10 credit hours, and a part-time employee can accumulate not more than one-eighth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

"(b) Any employee who is on a flexible schedule program under section 6122 of this title and who is no longer subject to such a program shall be paid at such employee's then current rate of basic pay for—

"(1) in the case of a full-time employee, not more than 10 credit hours accumulated by such employee, or

"(2) in the case of a part-time employee, the number of credit hours (not in excess of one-eighth of

the hours in such employee's biweekly basic work requirement) accumulated by such employee.

"§ 6127. Compressed schedules; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish programs which use a 4-day workweek or other compressed schedule.

"(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any program under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such program have voted to be so included.

"(2) Upon written request to any agency by an employee, the agency, if it determines that participation in a program under subsection (a) would impose a personal hardship on such employee, shall—

"(A) except such employee from such program; or

"(B) reassign such employee to the first position within the agency—

"(i) which becomes vacant after such determination,

"(ii) which is not included within such program,

"(iii) for which such employee is qualified, and

"(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

"(c) Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement under section 6130(a) of this title, any program under subsection (a) may be terminated by the Office of Personnel Management, or the agency, if it determines that the program is not in the best interest of the public, the Government, or the employees.

"§ 6128. Compressed schedules; computation of premium pay

"(a) The provisions of sections 5542(a), 5544(a), and 5550(2) of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act, as amended, or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

"(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by whichever statutory provisions referred to in subsection (a) are applicable to the employee. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after

the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

"(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of this title, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

"(d) Notwithstanding section 5546(b) of this title, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of this title, as applicable, or the provisions of section 7 of the Fair Labor Standards Act, as amended, whichever provisions are more beneficial to the employee.

"§ 6129. Administration of leave and retirement provisions

"For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of this title, in the case of an employee who is in any program under this subchapter, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

"§ 6130. Application of programs in the case of negotiated contracts

"(a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any program under this subchapter except to the extent expressly provided under a written agreement between the agency and such organization.

"(b) An agency may not participate in a flexible or compressed schedule program under a negotiated contract which contains premium pay provisions which are inconsistent with the provisions of section 6123 or 6128 of this title, as applicable.

"§ 6131. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

"(1) such employee's rights under section 6122 through 6126 of this title to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

"(2) such employee's right under section 6127(b)(1) of this title to vote whether or not to be included within a compressed schedule program or such employee's right to request an agency determination under section 6127(b)(2) of this title.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6132. Regulations; technical assistance; program review

"(a) The Office of Personnel Management shall prescribe regulations necessary for the administration of the programs established under this subchapter.

"(b)(1) The Office shall provide educational material, and technical aids and assistance, for use by an agency in connection with establishing and maintaining programs under this subchapter.

"(2) In order to provide the most effective materials, aids, and assistance under paragraph (1), the Office shall conduct periodic reviews of programs established by agencies under this subchapter particularly insofar as such programs may affect—

"(1) the efficiency of Government operations;

"(2) mass transit facilities and traffic;

"(3) levels of energy consumption;

"(4) service to the public;

"(5) increased opportunities for full-time and part-time employment; and

"(6) employees' job satisfaction and nonworklife.".

SEC. 3. The chapter analysis for chapter 61 of title 5, United States Code, is amended by inserting "SUBCHAPTER I—GENERAL PROVISIONS" immediately below the chapter heading, and by inserting the following items at the end of such analysis:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULE

"6121. Definitions.
"6122. Flexible schedules; agencies authorized to use.
"6123. Flexible schedules; computation of premium pay.
"6124. Flexible schedules; holidays.
"6125. Flexible schedules; time-recording devices.
"6126. Flexible schedules; credit hours.
"6127. Compressed schedules; agencies authorized to use.
"6128. Compressed schedules; computation of premium pay.
"6129. Administration of leave and retirement provisions.
"6130. Application of programs in the case of negotiated contracts.
"6131. Prohibition of coercion.
"6132. Regulations; technical assistance; program review.".

United States
Office of
Personnel Management
Washington, D.C. 20415

FEB 9 1982

In Reply Refer To

Your Reference

Honorable George Bush
President of the Senate

Dear Mr. President:

On November 4, 1981, the Office of Personnel Management submitted to the President pro tempore our interim report on the Government's experimental program of alternative work schedules for Federal employees, pursuant to Public law 95-390, the Federal Employees Flexible and Compressed Work Schedules Act of 1978. In that report, we indicated we would be submitting legislative recommendations to implement our findings. Accordingly, we submit herewith a legislative proposal "To amend title 5, United States Code, to authorize Federal agencies to utilize alternative work schedules for their employees when the use of such schedules will improve productivity or service to the public and will be cost effective, and for other purposes." We respectfully request that this proposal be referred to the appropriate committee for early consideration.

The three-year experimental program we are now completing found that the kinds of alternative work schedules permitted should be continued, but with specific limitations on the circumstances in which they may be used, and with greater management control over the decision to use or to terminate an alternative work schedule. Accordingly, the proposal provides that alternative work schedules may be used only when they would improve productivity or provide greater service to the public and would not add to the cost of agency operations. Further, prior approval by the Office of Personnel Management would be required for the use of a compressed work schedule, and any alternative work schedule would be terminated immediately if it were found to be no longer meeting the established criteria. The Office of Personnel Management would be given broad authority to regulate and oversee the use of alternative work schedules.

In March 1982, we will submit a final report on the experimental program as required by Public Law 95-390.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this proposal to the Congress.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely yours,

Donald J. Devine
Director

Enclosures

A BILL

To amend title 5, United States Code, to authorize Federal agencies to utilize alternative work schedules for their employees when the use of such schedules will improve productivity or service to the public and will be cost effective, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 61 of title 5, United States Code, is amended by--

(1) inserting after section 6101 a new section 6102, as follows:

"§6102. Alternative work schedules

"(a) For the purpose of this section--

"(1) 'agency' means an Executive agency and a military department;

"(2) 'basic work requirement' means the number of hours, excluding overtime hours, which an employee is required to work or account for by leave or otherwise in a biweekly pay period.

"(3) 'alternative work schedule' means a work schedule under which an agency permits or requires an employee to fulfill his basic work requirement at hours different from the working hours that would be prescribed for the employee under section 6101(a)(2)-(3) of this title;

"(4) 'compressed work schedule' means an alternative work schedule under which the 80-hour basic work requirement for a full-time employee is scheduled to be performed in less than 10 full workdays; and

"(5) 'credit hour' means an hour which an agency permits an employee to work voluntarily in excess of the employee's basic work

requirement in a pay period and which may be credited by the employee toward his basic work requirement in the same or a subsequent pay period.

"(b)(1) Notwithstanding the provisions of section 6101(a)(2)-(3) of this title, the head of an agency may, in accordance with the provisions of this section and regulations prescribed by the Office of Personnel Management, establish one or more alternative work schedules for use in the agency or in subordinate organizational elements in the agency, if the head of the agency determines that the use of an alternative work schedule--

"(A) would improve productivity or provide greater service to the public; and

"(B) would not add to the cost of agency operations.

"(2) The Office of Personnel Management shall require that an agency obtain prior approval of the Office before authorizing use of a compressed work schedule.

"(3) Notwithstanding any other provision of law or negotiated agreement, any alternative work schedule that is found by the head of the agency or by the Office of Personnel Management to no longer be fulfilling the objectives set forth in paragraphs (1)(A)-(B) of this subsection shall be terminated immediately.

"(c) The Office of Personnel Management shall prescribe regulations governing the periods during which an employee under an alternative work schedule shall be entitled to overtime pay and premium pay for work at night or on Sunday or a holiday, and such regulations shall supersede, to

the extent inconsistent therewith, the provisions of sections 5343(f), 5542(a), 5543(a)(1), 5544, 5545(a), 5546(a)-(b) and (d)-(e), and 5550 of this title, section 4107(e)(2)-(5) of title 38, section 7 of the Fair Labor Standards Act of 1938, as amended, or any other provision of law. The regulations prescribed by the Office under this subsection shall include provisions ensuring that an employee under an alternative work schedule does not, by reason of the times at which he elects to fulfill his basic work requirement, receive a greater amount of overtime pay or other premium pay than he would have received had he not been under an alternative work schedule.

"(d) The Office of Personnel Management shall prescribe regulations governing the accumulation and use of credit hours by employees under alternative work schedules. The regulations shall include limitations, not to exceed 24 hours, on the number of credit hours employees may be permitted to carry forward from one pay period to another.

"(e) In the case of an employee under an alternative work schedule, references to a day or workday (or to multiples or parts thereof) in sections 6303(a), 6304, 6307(a) and (c), 6323, 6326, and 8339(m) of this title shall be deemed to be references to 8 hours (or to the respective multiples or parts thereof).";

(2) amending section 6106 to read as follows:

"§6106. Adjustment of work schedules for religious observances

"(a) An employee whose personal religious beliefs require his abstention from work during certain periods of time may elect to perform work, at times satisfactory to his agency, in addition to his regularly

scheduled tour of duty, and such additional work shall be credited by the agency to the employee to offset absences from work during the employee's regularly scheduled tour of duty, if such absences are due to the requirements of the employee's personal religious beliefs.

"(b) For the purpose of this section, 'agency' has the meaning given it in section 5541(1) of this title.

"(c) The Office of Personnel Management shall prescribe regulations governing the application of this section in Executive agencies and military departments, and the heads of other agencies subject to this section shall prescribe regulations governing the application of this section in their respective agencies. Regulations prescribed under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved."; and

(3) by amending the analysis of chapter 61--

(A) by inserting after the item relating to section 6101 the following new item:

"6102. Alternative work schedules."; and

(B) by amending the item relating to section 6106 to read as follows:

"6106. Adjustment of work schedules for religious observances.".

(b) Section 3401(2) of title 5, United States Code, is amended by inserting after the word "week" the following: "(or 32 to 64 hours a biweekly pay period in the case of an alternative work schedule under section 6102 of this title)".

(c) Section 5550a of title 5, United States Code, is repealed, and the item relating to such section is struck from the analysis of chapter 55

of title 5, United States Code.

(d) Section 7106(a)(2) of title 5, United States Code, is amended--

(1) by striking out "and" at the end of paragraph (C)(ii);

(2) by striking out the period at the end of paragraph (D) and inserting in place thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(E) not to authorize the use of an alternative work schedule under section 6102 of this title, or to terminate the use of any such schedule which has been previously authorized.".

Sec. 2. (a) The amendments made by this Act shall be effective on March 29, 1982, or the date of enactment of this Act, whichever is later.

(b) Any alternative work schedule which has been established under Public Law 95-390 shall be reviewed by the head of the agency and shall be terminated within 90 days of the enactment of this Act, notwithstanding any other provision of law or negotiated agreement, if the head of the agency determines that the schedule is not fulfilling the objectives set forth in section 6102(b)(1)(A)-(B) of title 5, United States Code, as added by the first section of this Act.

STATEMENT OF PURPOSE AND JUSTIFICATION

To accompany a draft bill

"To amend title 5, United States Code, to authorize Federal agencies to utilize alternative work schedules for their employees when the use of such schedules will improve productivity or service to the public and will be cost effective, and for other purposes."

This proposal creates a permanent statutory authority for alternative work schedules following expiration of the three-year experiment authorized by Public Law 95-390, the Federal Employees Flexible and Compressed Work Schedules Act of 1978.

Under Public Law 95-390, the Office of Personnel Management created and evaluated work schedules that vary from the traditional weekly schedule of five days of eight hours each. These schedules were divided into two basic types: flexible schedules, which widen the band of hours in a day within which an employee can perform his regular work; and compressed schedules, with daily hours fixed in advance by management, but with a weekly pattern different from that of the traditional schedule, such as four days of ten hours each.

The experiment found that appropriately designed and controlled alternative work schedules are beneficial to agencies, employees, and the public. Alternative work schedules can improve the productivity of an organization or unit and increase its service to the public without adding to the cost of agency operations.

However, the study suggested the need for specific criteria that must be met in order to use an alternative work schedule, and for greater management control over the decision to begin or to terminate an alternative work schedule. Accordingly, the proposal allows alternative work schedules only when the head of the agency determines that their use would improve productivity or provide greater service to the public and not increase the cost of agency operations. In addition, compressed schedules could be used only if the agency head first obtains the approval of the Office of Personnel Management. Any alternative work schedule would have to be terminated immediately if the agency head or the Office of Personnel Management determines that it is no longer fulfilling the established criteria. The right would be reserved to management to decide not to begin an alternative work schedule, or to terminate such a schedule previously authorized. However, once the decision is made by management to allow or terminate an alternative work schedule, the normal labor-management provisions would apply.

The proposal directs the Office of Personnel Management to prescribe regulations defining the periods during which employees on alternative work schedules would be entitled to overtime pay and premium pay for working at night or on Sunday or a holiday, with the requirement that an employee may not receive greater overtime or other premium pay as a result of electing the number of hours or times of day or week he works. Under this standard, as an example, an employee who chooses

to work during night pay hours would not receive night pay solely as a result of that election, but would be able to receive night pay to the extent that such pay would have been provided under a regular work schedule. The premium pay provision would also allow the Office of Personnel Management to specify, for example, that overtime for a compressed schedule begins after the 10 hours scheduled for each of 4 days. For employees on alternative work schedules, these OPM regulations would supersede to the extent necessary the overtime provisions in title 5, United States Code, those in the Fair Labor Standards Act of 1938, as amended, certain provisions concerning pay for night, Sunday, or holiday work, and any other provision of law.

If an employee on a compressed schedule is relieved from work on a day due to a holiday, he would receive straight-time pay for the number of hours, such as 10, provided for that day by the compressed schedule.

Under the proposal, an employee could voluntarily work extra hours and use these credit hours at another time within the pay period or in a subsequent pay period. The carryover of credit hours to another pay period would generally be limited to 24 such hours, but under OPM regulations the carryover could be limited to fewer hours.

The proposal allows the participation of part-time employees by amending the definition of part-time employment in title 5, United States Code, to put on a biweekly rather than weekly basis the limitation on the number of hours worked in the case of alternative work schedules.

The proposal provides that, in administering the annual leave earning rate provision and certain other provisions that are defined in terms of workdays, the reference to a day means 8 hours in the case of employees under alternative work schedules. This provision ensures, for example, that the rate at which annual leave is earned is kept the same for employees whose hours worked per day may differ from 8 hours. However, employees would be able to use their leave at the rate of their scheduled workday.

Finally, the proposal makes technical changes concerning the provision of title 5 that allows employees to take time off from their regular work schedule for religious reasons. This provision, which was originally enacted as a part of Public Law 95-390, would be moved to chapter 61 from chapter 55, reflecting that hours taken off for religious observance are more appropriately viewed as an adjustment to the work schedule that is offset by additional work, rather than as compensatory time off earned by working overtime. The provision would require that the additional work to offset the absence must be performed at times satisfactory to the agency.

SECTION ANALYSIS

to accompany a draft bill

"To amend title 5, United States Code, to authorize Federal agencies to utilize alternative work schedules for their employees when the use of such schedules will improve productivity or service to the public and will be cost effective, and for other purposes."

The first section of the draft bill consists of amendments to title 5, United States Code. Subsection (a) of the first section consists of amendments to chapter 61 of title 5. Paragraph (1) adds a new section 6102 to chapter 61, entitled "Alternative work schedules."

Subsection (a) of new section 6102 provides definitions for the alternative work schedules program. "Agency" is defined as an Executive agency and a military department, thereby establishing the permissible coverage of this program. "Basic work requirement" means the number of hours in an employee's normal biweekly pay period. "Alternative work schedule" is defined as a work schedule which falls outside the traditional pattern of five fixed 8-hour days per week. "Compressed work schedule" is defined as a type of alternative work schedule under which a full-time employee would perform his 80 hours of work per pay period in less than 10 full workdays. "Credit hour" is defined as an extra hour which an employee works in order to be able to work an hour less at another time within the same pay period or in a subsequent pay period. The decision to work credit hours would be entirely voluntary, and coercion would not be permitted.

Subsection (b) of new section 6102 provides for the establishment and termination of alternative work schedules. Under paragraph (1), the head of an agency would be permitted to establish an alternative work schedule if he determined that it would improve productivity or provide greater service to the public, and would not add to the cost of agency operations. Paragraph (2) would direct the Office of Personnel Management to require an agency to obtain prior approval of the Office before using a compressed work schedule. Paragraph (3) would require either the head of the agency or the Office of Personnel Management to terminate any alternative work schedule that is not fulfilling the objectives set forth under paragraph (1).

Subsection (c) of new section 6102 would require the Office of Personnel Management to prescribe regulations governing the times when employees under alternative work schedules would receive overtime pay or other premium pay. These regulations, which would supersede the normal provisions of law on premium pay, would include provisions ensuring that employees under alternative work schedules would receive no more premium pay than they would receive if they were under a regular work schedule by reason of the hours or times they elect to work.

Subsection (d) would require the Office of Personnel Management to prescribe regulations governing the accumulation and use of credit hours. The regulations would include limits on the number of credit hours employees would be permitted to carry forward from one pay period to another. The regulations would not permit more than 24 hours to be carried forward.

Paragraph (2) of subsection (a) of the first section of the bill would replace the present section 6106 of title 5, prohibiting the use of time clocks in Executive departments in the District of Columbia, with an entirely different section 6106, concerning the adjustment of work schedules for religious observances. The prohibition on the use of time clocks was originally enacted in 1899, and applies only in Executive departments, and only within the District of Columbia. Removal of this provision would ensure that all agencies, including Executive departments, have the flexibility to use whatever type of time accounting system is most appropriate in a particular work setting, both for employees in alternative work schedules and for those on regular work schedules. The new section 6106 is very similar in substance to the present section 5550a of title 5, but would place this provision in a more logical place in title 5. In all cases, employees who chose to perform additional work in order to offset planned absences for religious purposes would be allowed to perform such additional work only at times satisfactory to the agency.

Paragraph (3) of subsection (a) would amend the analysis of chapter 61 to reflect the amendments made by paragraphs (1) and (2).

Subsection (b) of the first section of the bill would amend the definition of "part-time career employment" in section 3401 of title 5, to reflect the possibility of part-time employment under an alternative work schedule.

Subsection (c) of the first section of the bill would repeal section 5550a, now replaced by the new section 6106, and amend the analysis of chapter 55 accordingly.

Subsection (d) of the first section of the bill would amend section 7106(a)(2) of title 5 to add to the list of management rights under labor-management relations the exclusive management right not to authorize use of an alternative work schedule under the new section 6102, or to terminate the use of any such schedule previously authorized. While management would thus be able to refuse to allow an alternative work schedule, any decision by management to institute such a schedule would be fully subject to normal labor-management processes.

Section 2(a) of the bill provides that the amendments made by the bill would be effective on March 29, 1982 (the termination date of the alternative work schedules experimental program under Public Law 95-390), or on the date of enactment, whichever is later.

Section 2(b) would require the head of an agency to review, within 90 days of the enactment of the bill, every alternative work schedule established under Public Law 95-390. If the head of the agency determines any such schedule is not fulfilling the objectives set forth in new section 6102(b)(1) of title 5, the schedule must be terminated.

BOB PACKWOOD, OREG., CHAIRMAN
BARRY GOLDWATER, ARIZ. — HOWARD W. CANNON, NEV.
HARRISON H. SCHMITT, N. MEX. — RUSSELL B. LONG, LA.
JOHN C. DANFORTH, MO. — ERNEST F. HOLLINGS, S.C.
NANCY LANDON KASSEBAUM, KANS. — DANIEL K. INOUYE, HAWAII
LARRY PRESSLER, S. DAK. — WENDELL H. FORD, KY.
BLADE GORTON, WASH. — DONALD W. RIEGLE, JR., MICH.
TED STEVENS, ALASKA — J. JAMES EXON, NEBR.
BOB KASTEN, WIS. — HOWELL HEFLIN, ALA.

WILLIAM M. DIEFENDERFER, CHIEF COUNSEL
AUBREY L. SARVIS, MINORITY CHIEF COUNSEL
EDWIN K. HALL, MINORITY GENERAL COUNSEL

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
WASHINGTON, D.C. 20510

March 2, 1982

The Honorable Ted Stevens
Subcommittee on Civil Service, Post Office,
and General Services
United States Senate
Washington, D.C. 20510

Dear Ted:

Attached is a copy of my statement which I should like to submit for the record of your subcommittee's hearings on H.R.5366 on March 3, 1982.

With few exceptions alternative work schedules have been successful. The most obvious benefit has been an improvement in employee morale. Happier employees are more productive and more efficient. This benefits the employer, employee, and society as a whole.

With a March 29 deadline, it is imperative that the subcommittee act favorably on this legislation. I appreciate the opportunity to submit my statement for the record.

Warmest regards,

Nancy

Nancy Landon Kassebaum
United States Senator

STATEMENT OF

SENATOR NANCY LANDON KASSEBAUM

THE FEDERAL EMPLOYEES FLEXIBLE AND

COMPRESSED WORK SCHEDULES ACT

BEFORE THE SUBCOMMITTEE ON CIVIL SERVICE,

POST OFFICE, AND GENERAL SERVICES

COMMITTEE ON GOVERNMENTAL AFFAIRS

MARCH 3, 1982

Mr. Chairman and members of the Subcommittee, in 1978 a three-year program was instituted autnorizing federal agencies to experiment with flexible and compressed work schedules. The Office of Personnel Management concluded in an interim report that these alternative work schedules "can produce improvements in productivity, greater service to the public, and savings in costs."

Many of the public policy issues of this decade will focus on the workplace. The labor force is more diverse than it was thirty years ago. This diversity will lead to pressures to increase job options in order to meet workers' varied needs. Flexible working hours humanize work. Workers need and want flexibility to handle the complex demands of work and home life. In addition, there have been profound changes in the work force -- and in society as a whole -- over the last decade. There has been an increase in the number of families in which both the husband and wife work. Single parent families, as we all know, are growing in number. Older workers like to reduce their work hours while continuing to work. Workers of all ages want longer blocks of personal time.

U.S. News and World Report in an article on September 28, 1981, entitled "Flexible Work Hours Gain Momentum" noted that 21.3 million workers, more than one-fifth of the U.S. labor force, work some kind of nontraditional schedule. This is a doubling of that number since 1973.

Executives are learning that although little or no investment is required to implement new work schedules, the returns are substantial. Managers of Metropolitan Life say that flexitime has heightened the productivity of 10,000 headquarters employees in New York City.

S. E. Conly, the head of Employee Relations for Conoco in Texas, says in reference to flexitime, "managers like it because workdays tend to be better organized and the office is covered a longer period, enhancing contact with overseas operations."

Flexible working hours at Hewitt-Packard in Waltham, Massachusetts, were consistent with the company's emphasis on the dignity and work of the employees, according to management.

These same benefits accrue in the public sector. In Kansas the Soil Conservation Service with 425 alternative work schedule participants (85 percent of all employees on alternative work schedules in Kansas) reported that its productivity remained high during the experiment and that it was able to maintain the same service to the public under alternative work schedules that it provided in the past. Job satisfaction increased and employees were very happy to have the opportunity to select their work schedule. The primary schedule used by the Soil Conservation field units was flexitime. However, twelve soil scientists participating in the experiment worked under a 4-10 compressed shcedule. There was a saving of 20 percent on mileage and gas consumption for these soil scientists on the 4-10 compressed schedule. Alternative work schedules are inexpensive to implement and have proven benefits for both the employer and the employee. In service organizations, alternative work schedules can provide longer hours of service to the public.

As you know, the legislation which authorized federal agencies to experiment with flexible and compressed employee work schedules will expire on March 29, 1982. Time is of the essence. I encourage my colleagues to support this important legislation which will provide permanent authorization for federal agencies to use flexible and compressed work schedules. I appreciate the opportunity to submit my statement for the record.

STATEMENT OF SENATOR PAUL S. SARBANES

BEFORE THE CIVIL SERVICES,

POST OFFICE AND GENERAL SERVICES SUBCOMMITTEE

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

REGARDING FLEXIBLE AND COMPRESSED WORK SCHEDULES

FOR FEDERAL EMPLOYEES

MARCH 3, 1982

Mr. Chairman, I commend you for holding hearings in the Civil Services Subcommittee on an issue that I consider of great importance to millions of persons employed in the Federal service. More than 320,000 Federal employees have participated over the last three years in an experimental flexitime program authorized by Congress in Public Law 95-390 to explore alternatives to the traditional fixed-schedule eight hour workday. Yet in spite of a positive assessment of the program by the Office of Personnel Management, the Administration has failed to submit a viable proposal for its continuation.

Under the current flexitime law, agencies have benefited and service to the public has improved. Alternative work schedules have resulted in decreased traffic congestion, higher usage of buildings and equipment, and improvements in employee attendance, punctuality and morale. Flexible schedules have also permitted working parents to better meet their family responsibilities. Employees have been able to improve the quality of their work while minimizing conflicts between work schedules and family requirements.

The Office of Personnel Management found that with the large number of Federal employees participating in the experiment, alternative work schedules were successful in most situations from the perspective of both the agencies and individuals. In fact, over 90 percent of non-supervisory personnel and over 85 percent of supervisors reported that they were satisfied with their alternative work schedules and wished to retain them. More than 79 percent of the experimenting organizations judged the programs successful.

OPM has recommended that Congress enact permanent legislation authorizing continued use of alternative work schedules in the Federal government but has stipulated that such legislation should provide for appropriate agency control and oversight. OPM has yet to outline these specific provisions or to discuss in detail potential control or oversight problems.

I question the seriousness of the Administration's commitment to the alternative work schedules concept and refer the members of this Subcommittee to Mike Causey's column, "The Federal Diary", in yesterday's Washington Post. In it he says, "It appears the administration would rather let the flexitime experiment die than accept legislation by Rep. Geraldine Ferraro (D-N.Y.). Her bill would continue the current program without the management controls the White House insists on."

Mr. Chairman, the advantages of retaining and more broadly implementing alternative work schedules in the Federal government make it imperative that we do not let this program expire on the inadequately justified pretext of control and oversight provisions. Subject to collective bargaining agreements, management can maintain discretion on how to devise, incorporate, and even terminate alternative work schedules without having to resort to the arbitrary, ill-defined, and prolonged assessments that the Administration desires. I urge that the Subcommittee act quickly to ensure that this important program continue after the original enabling legislation expires March 29.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY
FOR ADMINISTRATION

IN REPLY REFER TO:

March 12, 1982

Honorable Ted Stevens
Chairman, Subcommittee on Civil Service,
Post Office, and General Services
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Stevens:

I am pleased to submit the enclosed statement for inclusion in the record of your March 3, 1982, hearing on "Alternative Work Schedules for Federal Employees."

Sincerely,

Judith L. Tardy
Assistant Secretary

Enclosure

94-333 O - 82 - 7

ALTERNATIVE WORK SCHEDULES FOR FEDERAL EMPLOYEES

STATEMENT FOR THE RECORD

Submitted by

JUDITH L. TARDY
ASSISTANT SECRETARY FOR ADMINISTRATION
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

to the

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I appreciate the opportunity to present to you the views of the Department of Housing and Urban Development on Alternative Work Schedules for Federal Employees. On the basis of its own experience with alternative work schedules, the Department supports the Administration's Bill, S.2156, as a balanced and reasonable approach to this subject.

The Administration's Bill is based upon an extensive, three-year study of alternative work schedules in a wide range of Federal agencies. The study was conducted by the Office of Personnel Management (OPM) in accordance with the Federal Employees Flexible and Compressed Work Schedules Act of 1978. OPM concluded on the basis of that study that permanent legislation ought to be enacted authorizing the use of alternative work schedules in Federal agencies, but that this authority ought to be tempered with some legitimate management controls.

The Department of Housing and Urban Development (HUD) did not participate in the OPM study, choosing instead to conduct its own, more limited alternative work schedules experiment in selected offices. I should note that HUD experimented only with flexitime. Because the Department did not choose to participate formally in the OPM study, it was not authorized to experiment with compressed work schedules. HUD's experiment relied only upon the scheduling authority already available to agency heads under Title 5 of the United States Code.

Nonetheless, the conclusion reached by this Department was remarkably similar to that reached by OPM: flexitime can operate without adverse consequences for Departmental operations only when it is carefully managed.

Let me outline for you briefly how HUD's flexitime experiment was structured:

-- HUD experimented with flexitime for over two years in 11 "test" offices with approximately 2,000 employees (over 12% of the HUD work force).

-- Each test office was governed by a standard set of rules and regulations. Employees in those offices were permitted to vary their arrival and departure times at will within certain "flexible time" bands, so long as they put in a full eight hours each day and were present during prescribed "core time" periods.

-- From the outset, certain management controls were established. Supervisors were authorized to override individual schedule choices as they deemed necessary in order to meet operational requirements.

-- The Department examined in detail the impact of flexitime on mortgagees, developers, local government officials, and other program participants and on HUD managers and supervisors, as well as on individual employees. In-depth interviews were conducted with randomly selected representatives from each of these groups in each test office.

-- Our evaluation focused on a number of different impact areas, several of which were also examined in the OPM Study: organization and scheduling of work, the delivery of services to program participants, management and administration of flexitime, productivity, employee behavior and impact, transportation and community patterns, and energy consumption.

-- In an attempt to be as rigorous as possible, comparative data were also collected for eight, carefully matched "control" offices with approximately 1600 employees.

The results of our experiment indicated that flexitime has its greatest impact on individual employees. Thus, it is not surprising that the overwhelming majority of our test office employees liked and used flexitime. Over 90% of them favored adoption of flexitime on a permanent basis.

In contrast, the impact of flexitime generally on program participants and on HUD managers and supervisors appeared to be relatively minor:

-- Most test office program participants were unaffected by (and frequently unaware of) the flexitime experiment and consequently exhibited no strong positive or negative feelings toward it.

-- Test office managers and supervisors also perceived few significant impacts of flexitime, either on their own administrative and supervisory responsibilities or on Departmental operations generally. They used flexitime much as other HUD employees and tended to react to it in the same positive manner.

Nevertheless, our findings were not entirely positive. Two major problems did emerge from our experiment:

1. When given complete freedom of choice, most employees shifted to earlier work hours, resulting in inadequate late afternoon coverage in some offices and making it difficult to provide extended service hours to the public; and
2. Some test office employees abused the additional freedom they were given under flexitime. In a small number offices and work units, widespread abuse was documented, and more limited instances of abuse were reported in many other offices and work units.

Neither of these problems necessarily implies that flexitime cannot work, but they do mean that flexitime must be carefully structured to ensure that the Department is able to deal with these problems.

Insofar as the disproportionate shift of employees to earlier hours was concerned, we found that the level and quality of service rendered by some test offices to key client groups, particularly FHA mortgagees, was significantly diminished under flexitime. About 30% of all program participants interviewed (including almost half of the mortgagees) reported problems in getting in touch with people or getting satisfactory service from their local HUD office during the final hour of the business day.

We also learned that there are some jobs for which flexitime was simply inappropriate. We have receptionists in some offices whose sole duty is to clock in official documents during regular business hours. If these individuals come in early or work late, they have nothing to do. Worse yet, other employees must be diverted from their jobs to cover these work stations if these receptionists are not present during part of the regular business day.

In order to avoid these sorts of problems, it is essential that management retain sufficient authority in whatever type of alternative work schedules program is established to be able to limit or override individual choices of work hours as necessary to meet operational needs. S.2156 would accomplish this by requiring that any alternative work schedule program be coupled with improved productivity or increased service to the public and by giving management the right not to permit programs without reasonable limitations.

With respect to the problem of abuse, we recognized at the outset of our experiment that it would be difficult for supervisors to be present at all times when employees were working. We, therefore, required that sign in/sign out registers be used to monitor individual time and attendance in all test offices. Even then, we had some problems. There were instances where employees falsely recorded their arrival or departure times on the registers to indicate that they had worked their full eight hours. There were other instances where employees came in early, signed in, then went out for breakfast or sat around the office reading the newspaper.

There will always be individuals who will try to take advantage of the system It is essential, therefore, that management be given the tools to deal with such cases. The legislation submitted by OPM provides agencies the flexibility to adopt appropriate time accounting systems, including the use of mechanical time recording devices, if necessary. Even where agencies have no present plans to utilize such devices, it is important to have this authority available on a back-up basis.

In addition to these two major problems, HUD's experience with flexitime suggests that the supposed corollary benefits which accompany flexitime are not necessarily realized. For example:

-- Longer service hours did not become available to H D clients.
-- Short-term leave and overtime use were not reduced.
-- Recruiting of new employees was not significantly affected.
- Commuting patterns and overall energy usage were not measurably affected.

We need to acknowledge that alternative work schedules programs are usually set up for the personal convenience of individual employees and, as such, should be regarded largely as an employee benefit. In this context, it is legitimate to stress the importance of establishing sound and reasonable standards and management controls which ensure that the interests of employees, management, and the public are all properly balanced.

The Department of Housing and Urban Development believes that S.2156 is a Bill which achieves this desired balance.

UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

March 2, 1982

Dear Mr. Chairman:

The Department of State wishes to offer comments for the Subcommittee's consideration in its deliberations on the Administration's bill to give permanency to the Alternative Work Schedules (AWS) program.

The Department has had almost three years of experience with the pilot AWS program begun under the provisions of Public Law 95-390, the Federal Employees Flexible and Compressed Work Schedules Act of 1978, and has had only one instance of managerial difficulty with the program. That difficulty concerned management's attempt to implement its judgment that in two field activities of the Office of Security, day-to-day operations under AWS program schedules were not consistent with sound management. Specifically, these field offices established compressed work-week schedules (4 day week, 10 hour days). Subsequently, experience showed that as a result of having fewer employees available each day, operational requirements could not always be met successfully. This is particularly important to us in the Security area, where required activities cannot be programed in advance. When management attempted to terminate these unsatisfactory programs, it was told that the decision to terminate was itself subject to the collective bargaining process.

The Office of Personnel Management had at one time viewed the language in sections 102 and 202 of Public Law 95-390 as "providing OPM and the agency a protected right to terminate an (AWS) experiment, although the procedures by which termination is to be carried out must be negotiated." (S5-1b, FPM Supplement 990-2.) That view was overturned by the Federal Labor Relations Authority in its decision in Case No. O-NG-193 (3 FLRA 37), wherein it found in pertinent part: "That is, Congress clearly intended that both the establishment and the limitation or termination of flexible and compressed work schedule

The Honorable
Ted Stevens,
Chairman, Senate Subcommittee
on Civil Service, Post Office
and General Services,
Committee on Governmental
Affairs,
United States Senate.

experiments be subject to negotiation." (See page 4 of the enclosure.)

The Department considers that the Administration's bill submitted to the Congress on February 11, 1982 properly focuses on the Department's concern that management must have sole right to begin and end such programs. I urge the Subcommittee to support that view as expressed in the draft bill.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

Robert H. Miller
Acting

Enclosure:

FLRA Case No. O-NG-193

3 FLRA No. 37

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON, D.C.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, LOCAL 2151

(Union)

and

Case No. 0-NG-193

GENERAL SERVICES ADMINISTRATION, NATIONAL CAPITAL REGION, WASHINGTON, D.C.

(Activity)

DECISION ON NEGOTIABILITY ISSUE

This case comes before the Federal Labor Relations Authority (the Authority) pursuant to section 7105(a)(2)(E) of the Federal Service Labor-Management Relations Statute (5 U.S.C. 7101 et seq.).

In the course of negotiating a memorandum of agreement to implement the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Pub. L. No. 95-390, 92 Stat. 755 (1978). [hereinafter referred to as the Work Schedules Act], the union submitted the following proposal to the activity:

Union Proposal

Section 4. The program may be terminated by the Employer for any employee or group of employees when the following condition is met:

A. A finding of fact by an arbitrator appointed by the Federal Mediation and Conciliation Service that one of the following conditions have been met:

(1) The continuation of the program would substantially disrupt the Agency in carrying out its functions; or

(2) The Agency is incurring additional costs because of its participation in the program.

Question Here Before The Authority

The question is whether the union's proposal concerning flexible work schedules is within the duty to bargain under the Statute or is inconsistent with Federal law, as alleged by the agency.

Opinion

Conclusion: The union's proposal is within the duty to bargain under the Statute. Accordingly, pursuant to section 2424.10 of the Authority's Rules and Regulations, 45 F. R. 3513, the agency's allegation that the proposal is not within the duty to bargain is set aside. 1/

Reasons: Insofar as relevant to the instant dispute, the Work Schedules Act requires each agency of the executive branch, unless exempted by the Civil Service Commission (now the Office of Personnel Management), to establish a flexible or compressed work schedule experiment for its employees; and further provides that, where employees are in a unit for which a labor organization holds exclusive recognition, the introduction of any flexible or compressed work schedule experiment shall be subject to collective bargaining. 2/ In the latter regard, section 302(a) of the Work Schedules Act provides that employees in units of exclusive recognition cannot be included in flexible or compressed work schedule experiments except to the extent expressly provided under a written agreement between the agency and the exclusive representative. 3/ The legislative history of section 302(a) states as follows: 4/

1/ In so deciding that the subject proposal is within the duty to bargain, the Authority makes no judgment as to the merits of the proposal.

2/ H.R. REP. No. 95-912, 95th Cong., 2d Sess. 3, reprinted in [1978] U.S. CODE CONG. & AD. NEWS 1894, 1896.

3/ Section 302(a) of the Work Schedules Act provides as follows:

> Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any experiment under title I or II of this Act except to the extent expressly provided under a written agreement between the agency and such organization.

4/ H.R. REP. No. 95-912, 95th Cong., 2nd Sess. 22, reprinted in [1978] U.S. CODE CONG. & AD. NEWS 1894, 1914.

The committee intends this section to preserve the provisions of negotiated agreements which are otherwise proper under labor-management Executive orders, which deal with the establishment of hours of work, and to permit any party to such a contract to enter into negotiations in order to take advantage of any of the new alternative work schedules under an experimental program.

Where a labor organization has exclusive recognition, it is the intent of the committee that the parties to the contract negotiate the introduction of any experimental program provided for under the bill, in accordance with labor-management relations, Executive orders, or any other applicable collective bargaining agreement. Where a labor organization has exclusive recognition, whether or not the existing agreement contains a clause dealing with hours of work, the committee believes that the establishment of flexible or compressed schedules is an appropriate area for negotiation between the agency and the labor organization. [Emphasis added.]

Accordingly, it is clear from the language and legislative history of the Work Schedules Act that Congress intended the matter of flexible history of the Work Schedules Act that Congress intended the matter of flexible or compressed work schedules to be negotiated between the parties to existing collective bargaining relationships.

In its statement of position herein, the agency "does not question that the procedures for implementing an alternative work schedule experiment . . . are negotiable," but asserts that the union's proposal "deprives management of the ability to cancel the alternative work schedule for bargaining unit employees" and therefore is in direct conflict with sections 102(b)(2) 5/ and 202(c) 6/ of the Work Schedules Act. The agency also asserts, without further

5/ Section 102(b)(2) of the Work Schedules Act provides as follows:

(b) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a)--

. . . . .

(2) if the head of an agency determines that any organization within the agency which is participating in an experiment under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may--

(A) restrict the employees' choice of arrival and departure time,

(B) restrict the use of credit hours, or

(C) exclude from such experiment any employee or group of employees.

6/ Section 202(c) of the Work Schedules Act states:

(c) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a), any experiment under subsection (a) may be terminated by the Commission, or the agency, if it determines that the experiment is not in the best interest of the public, the Government, or the employees.

elaboration, that if it were to agree to the union's proposal, it would be shirking the managerial responsibilities entrusted to each agency as set forth in section 7106(a) of the Statute.

The agency's assertion that the instant proposal is inconsistent with sections 102(b)(2) and 202(c) of the Work Schedules Act is unsupported by the language and legislative history of those provisions. While both sections refer to the circumstances under which an agency may limit or terminate a flexible or compressed work schedule experiment, an agency's authority to take any such action is expressly made "subject to the terms of any written agreement under section 302(a)." That is, Congress clearly intended that both the establishment and the limitation or termination of flexible and compressed work schedule experiments be subject to negotiation. 7/ Accordingly, the agency's contention that the union's proposal is contrary to the Work Schedules Act must be rejected. Moreover, the record fails to establish and it does not otherwise appear that the subject proposal conflicts with management's reserved rights under section 7106(a) of the Statute, as alleged.

Based on the foregoing, the disputed proposal is within the duty to bargain under the Statute, and the agency's allegation that such proposal is not within the duty to bargain is set aside.

Issued, Washington, D.C., May 23, 1980

Ronald W. Haughton, Chairman

Henry B. Frazier III, Member

Leon B. Applewhaite, Member

FEDERAL LABOR RELATIONS AUTHORITY

7/ Supra p. 3. See also H.R. REP. No. 95-912, 95th Cong., 2d Sess. 14-15, 20, reprinted in [1978] U.S. CODE CONG. & AD. NEWS 1894, 1907, 1912.

SBA

U.S. Small Business Administration
Office of the Administrator
Washington, DC 20416

Honorable Ted Stevens
Chairman
Subcommittee on Civil Service and
General Services
Committee on Governmental Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

During the period from January 1979 to February 1982, the United States Small Business Administration participated in alternative work schedule (AWS) experiments under P.L. 95-390. As of May 1981, approximately forty-five of our offices, in seven of our ten regions, were conducting the AWS experiment. All forty-five were conducting flexitime type programs, and twelve were simultaneously conducting compressed work week (5-4-9) experiments. A total of 1482 employees were involved, with 220 on a compressed (5-4-9) schedule, and 1264 on either a flexitime or flexifour schedule.

A number of reports were generated by Agency managers responsible for the operation of these forty-five offices. While quantitative measurement cannot be explicitly applied to our experiences under the AWS, one clear trend emerged: of the twelve offices initiating compressed schedule experiments simultaneously with the flexitime experiment, eight requested early termination of the compressed schedule. The major reason for the request to terminate was the negative impact on service to the public and office operations caused by the absence of employees for one day every pay period. Each of these offices had fewer than fifty employees.

It was apparent that smaller offices do not have the depth of personnel with both technical skills and client knowledge to respond to the demands of the public and other office employees. This means that one employee's absence has a multiplier effect on other employees who are forced to hold work in abeyance, or delay responses to clients, awaiting the return of the employee on the compressed schedule. This situation is further exacerbated by unscheduled emergency type absences due to illness, accidents, or any of the myriad, unprogrammable situations necessitating an employees time away from the office.

A secondary problem emerged from the termination of these eight compressed experiments. The Agency interpreted P.L. 95-390 to authorize management to terminate the specific compressed experiment based on negative impact to the public and the Agency. The Federal employee unions representing employees on compressed schedules took issue with the exercise of this right. While management fulfilled its obligations under Title VII of the Civil Service Reform Act as well as all contractual obligations to negotiate the impact and implementation of its right to terminate, a number of unfair labor practice complaints were filed with the Federal Labor Relations Authority. Although management's actions were upheld in all cases, it is recommended that any amendment to the bill clearly and unequivocally address management's right to decide to initiate and terminate AWS programs.

Although only two facets of our AWS experiences with the compressed schedule have been substantially addressed, we would be remiss in not mentioning that various management officials in the forty-five offices cited increases in overtime, a probable decrease in productivity, and greater energy consumption, in addition to impairment to service to the public, as a result of participation in the experiment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

/

Donald R. Templeman
Acting Administrator

Congressional Research Employees Association (CREA)
P. O. Box 8975, Southeast Station
Washington, D. C. 20003

February 11, 1982

President:
Patrick J. Hunt
Vice President:
Peter V. Gormley
Treasurer:
Sharon E. Gressle
Secretary:
Toni D. Drake
Assistant Secretary:
George J. Kapaneske

Honorable David H. Pryor
Subcommittee on Civil Service & General Services
55 Capitol Hill Apartments
U.S. Senate
Washington, D.C. 20510

ATTENTION: Knox J. Walkup

Dear Senator Pryor:

As you know, the House Post Office and Civil Service Committee yesterday approved a bill to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules. If the House passes H.R. 5366 in the next few weeks, it is likely that the Subcommittee on Civil Service and General Services would soon be working on similar legislation.

As the exclusive representative of the employees of the Congressional Research Service, CREA requests your assistance. The Library of Congress should not be excluded from the provisions of the Federal Employees Flexible and Compressed Work Schedules Act of 1982. CREA would appreciate your help in having the Library included in the definition of "agency" within the legislation.

The Library, and CRS in particular, should be covered by the Act so that service to Congress can be improved. Many Senators and their staff do not work standard nine-to-five schedules. CRS employees, if allowed compressed work schedules would be available to answer Congressional inquiries both earlier and later in the day. In addition, our service to Senate offices on the West coast would be improved; too often rush requests from offices in the Pacific time zone and further west are not answered in a timely fashion because many CRS employees have left by 2:00 p.m. Pacific time.

Unlike the personal and committee staff of the Congress, the employees of the Library are similar to Executive Branch employees in their work patterns and in many of their responsibilities. The Library of Congress in essence, is a bureaucracy, similar to the Department of Transportation or Commerce. If the Subcommittee and Congress feel that compressed work schedules will benefit workers in the Executive Branch, there is no reason to discriminate against the employees of a Congressional support agency like CRS and the Library.

As has been noted by the Office of Personnel Management and by those testifying before the House Subcommittee on Human Services, alternative work schedules are a cost-free method of improving productivity and employee morale. These benefits to both employees and management are no less needed in the Library of Congress than in the Executive agencies.

In September of 1980, a joint labor-management task force within the Library unanimously requested that the Library seek to be included in the Federal Employees Flexible and Compressed Work Schedule Act of 1978 (P.L. 95-390). The highly favorable report of the task force is enclosed for your information. The Library has not taken any action in the interim.

It is important to note that by including the Library of Congress in the definition of "agency", Congress would not be imposing alternative work schedules on anyone-- employees or management-- in the Library. Any alternative work schedule program implemented in the Library would be a matter for negotiation between the employees' exclusive representatives and management. Library management is not likely to accept or negotiate a plan that it can't live with.

The employees of the Library of Congress should be allowed the option of compressed work schedules. Your help in granting them that option will be greatly appreciated. I would be happy to further discuss this matter with your staff at their convenience. Please do not hesitate to call if you have any questions or if I can be of assistance (287-7577).

Thank you for your cooperation.

Yours very truly,

J. P. Brown

Jeffrey P. Brown
President

Enclosure
JPB:cl

UNITED STATES GOVERNMENT

Memorandum

LIBRARY OF CONGRESS

TO : Daniel J. Boorstin
The Librarian of Congress

VIA : Donald C. Curran
The Associate Librarian of Congress

DATE: SEP 29 1980

FROM : Glen A. Zimmerman
The Associate Librarian for Management

SEP 25 1980

SUBJECT: Recommendation on the Compressed Workweek

The Task Force on the Compressed Workweek has completed its inquiry into the experiments in Executive branch agencies with the compressed workweek and have recommended unanimously that the Library request inclusion under the appropriate legislation which would permit it to experiment in this area. The recommendation of the Task Force is attached, as is the report setting forth its findings.

As defined in the Act (P.L. 95-930) a compressed workweek for full-time staff members is "an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays." Typically, it takes the form of either a 4-day workweek or a 5-4/9 plan. With a 4-day week, the basic work requirement is 10 hours each day and 40 hours each week. The 5-4/9 plan provides for 5 workdays one week and 4 the next week, with each workday being approximately 9 hours in length.

The compressed workweek findings in the other Federal agencies are very similar to the findings which resulted in the Library from its experimenting with flexitime. As in all endeavors, the compressed workweek experiments are demonstrating that there are advantages and disadvantages in change. On the side of advantages is the positive effect on morale generally; some limited indications of increased productivity, although no hard data was available; some expanding of service to the public; some reduction in the use of short-term sick and annual leave; more personel time for staff members to conduct business; and long weekends. On the minus side is the difficulty of scheduling staff meetings; the feeling on the part of some supervisors that there was some loss of contact with staff members and thus loss of supervisory control; the working out of equitable work schedules; and a decrease in productivity late in the day due to fatigue.

From the Library's point of view, one of the most important considerations is the impact which the compressed workweek would have on the processing of the payroll. As you are aware, our present procedure is taxed to the limits of its capabilities. However, there was no evidence developed by the Task Force that payroll considerations in other agencies had been particularly significant. Where there were problems, they were worked out within the first two or three payroll periods. The Chief of the Financial Management Office has indicated that, given sufficient lead time, they could accommodate the compressed workweek to the current payroll system.

I endorse the recommendation of the Task Force and urge that the Library proceed without delay in its efforts to be included under P.L. 95-930.

Attachments: Task Force recommendation and report

CC: Members, Executive Session; Executive Officers; Personnel Staff Meeting Participants; Labor Organization Presidents; Chief, Financial Management Office; Compressed Workweek Task Force Members (with attachments)

We, the Members of the Task Force on the Compressed Workweek, recommend that the Library of Congress request an amendment to the Federal Employees Flexible and Compressed Work Schedule Act of 1978 (P.L. 95-930) to bring it within the provisions of this Act. This legislative authority would permit an experiment in the Library with various forms of the compressed workweek.

During the past months, this Task Force undertook a survey of Executive branch agencies currently experimenting with alternative work schedules which have longer workdays but shorter workweeks, and we are of the opinion that the Library and its employees would benefit from the merits of the compressed workweek. Details of the findings are set forth in the attached report.

If additional or more specific information is needed to assist you in the support of this request, please do not hesitate to call upon us.

Attachment

Glen A. Zimmerman, Chair

Arthur J. Lieb, ALC

Arnie Bellefontaine, AL/NP

Catherine M. Croy, AL/M

Kimberly W. Dobbs, Proc

Douglas Warshof, CRS

Rueben Gist, Cop

LaVerne Mullin, LL

Ann Costakis, Res

John E. Roberts, LLCUNAE

Gerard Dault, LLCUNAE

for Kathryn Sciuka, AFSCME 2910

N. Alicia Byers, AFSCME 2910

William Whittaker, CREA

George Stehl, CREA

Peter A. Galley, AFSCME 2477

Quinn Robinson, AFSCME 2477 per phone

A REPORT ON THE 4-DAY WEEK AND OTHER COMPRESSED WORK SCHEDULES

Public Law 95-390, which was approved September 29, 1978, resulted from a finding by the Congress that "new trends in the usage of 4-day workweeks, flexible work hours, and other variations in workday and workweek schedules in the private sector appear to show sufficient promise to warrant carefully designed, controlled, and evaluated experimentation by Federal agencies over a 3-year period to determine whether and in what situations such varied work schedules can be successfully used by Federal agencies on a permanent basis..."

Known as The Federal Employees Flexible and Compressed Work Schedule Act of 1978, it provided in Title I for "Flexible Schedule of Work Hours" and in Title II for the "4-Day Week and Other Compressed Work Schedules." This report deals only with Title II, which provides for the conducting of experiments in agencies of the executive branch to test a 4-day workweek or other compressed schedule, with the provision that the Fair Labor Standards Act and/or any other law relating to premium pay for overtime work should not apply to the hours which constitute a compressed schedule.

A compressed schedule was defined by the Act as (A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and (B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays. The term overtime hours would mean any hours in excess of those specific hours which constitute the compressed schedule.

The Civil Service Commission (Now Office of Personnel Management (OPM)) was given responsibility for establishing a master plan which "shall contain guidelines and criteria by which the Commission (OPM) will study and evaluate experiments conducted under ...this Act. Such master plan shall provide for the study and evaluation of experiments within a sample of organizations of different size, geographic location, and functions and activities, sufficient to insure adequate evaluation of the impact of varied work schedules on:

1) the efficiency of Government operations;
2) mass transit facilities and traffic;
3) levels of energy consumption;
4) service to the public;
5) increased opportunities for full-time and part-time employment; and
6) individuals and families generally."

It was further charged with responsibility for submitting a final report, not later than three years after the effective date of the Act, containing recommendations as to what, if any, legislative or administrative action should be taken based upon the results of experiments conducted under this Act.

Implementation of Title II, as well as Title I, has proceeded apace under the aegis of the OPM and experiments are in full swing throughout much of the Federal sector.

On September 14, 1979, the presidents of all four labor organizations in the Library of Congress, speaking on behalf of the more than 4,000 Library staff members which they represent, petitioned The Librarian of Congress to support and assist them in petitioning the Congress to amend this Act so as to include the Library under its provisions.

Management's response to the labor organizations' petition was to give approval for the conduct of a study on the feasibility of the compressed workweek in the Library by a task force made up of representatives from both management and labor organizations.

Such a task force was constituted and an initial meeting was held on Thursday, April 10, in the Whittall Pavilion with Glen A. Zimmerman, Director of Personnel, chairing the session. The charge to the task force was to make a study of the compressed workweek concept and to make recommendations to The Librarian as to whether or not it was feasible for the Library to come under the Act for purposes of a compressed workweek experiment.

As the study has progressed, extensive discussions have been had with Ms. Sandra Blake of the Alternative Work Schedules Section of the OPM. She addressed a meeting of the Task Force on June 4 to which interested managers and labor organization officials were invited. Ms. Blake had advised the Task Force earlier that the deadline for an agency to be admitted to their experimental program was April 30, 1980.

Subsequent to a June 16 meeting, members of the Task Force began their data collecting using a questionnaire which was designed by

the group for this express purpose. Data was obtained from a total of 12 different offices throughout the Federal government. Those offices furnishing information in response to the questionnaire, together with information as to the compressed workweek plan(s) being experimented with and information on the functions and activities of each are listed below:

(a) Department of State
Bureau of Intelligence and Research

They are experimenting with the 5-4/9 plan. Two-thirds of their staff are analysts (many foreign service) and one-third are support staff. One-third of the staff are participating in the program at their option.

(b) Department of State
Miami Passport Office

Approximately one half of their employees are experimenting with the 4-10 plan. These employees receive, adjudicate, and process passport applications received by mail and in person. They answer general telephone questions and use heavy machinery to process passports.

(c) Treasury Department
Bureau of Engraving and Printing
Office of Industrial Relations

They are experimenting primarily with the 4-10 plan; however, a six-day workweek has to be covered.

(d) Department of Interior
Heritage Conservation Recreation Service

Approximately 400 employees are experimenting with the 5-4/9 plan. Staff include outdoor recreation planners, historians, archeologists, architects, administrators, and clerical staff. Most everyone is

involved to some degree in dealing with the public. They do not, for the most part, deal with the public in the sense of being constantly available to people "walking in off the street," although some of that is involved.

(e) Department of Commerce
Bureau of East-West Trade

Most of these employees have gone to the 5-4/9 or the 4-10 plan. A few have tried a 5-day week and they have maxiflex.

(f) National Endowment for the Arts

They are using the 5-4/9 and 4-10 plans and flexitime. Offices on compressed time are also on fixed schedules.

(g) Department of Agriculture
Soil Conservation Service

They have a total force of 16,000, both in Washington and in the field. From 75% to 80% of their employees agency-wide are participating in the 5-4/9 plan. They have both office and field work.

(h) Department of Commerce
Office of Administrative Services

Initially 138 permanent and temporary employees were surveyed and 54 (40%) selected a work schedule of less than 10 work days. They have the maxiflex plan which embraces both the 5-4/9 and the 4-10 as well as other alternative schedules. A six month follow-up survey was made of 128 employees, and there were only 21 (16%) employees fulfilling the work requirement in less than 10 work days. This decrease in participation resulted from employees' own initiatives to revert to an 8 hour work day; however, there is more employee participation in the

flexitour than when the experiment began. The kinds of work performed by these employees include writing policy and procedures; management and assignment of real property and space; personal property and inventory management; mail and messenger service; telephone and teletype service; records and forms management; shipping and receiving; passenger and materials pick up and delivery; publications distribution; departmental library service; labor jobs; storage and distribution of property and supplies.

(i) Office of Personnel Management
Rocky Mountain Regional Office

They have about 170 employees involved in the compressed workweek program. Multiple work schedules including the 4-10, 5-4/9 and flexitime are used.

(j) General Services Administration

They are experimenting with the 5-4/9 and the 4-10 plans.

(k) Congressional and Communications Staff
Crystal City, Virginia

They are experimenting with the 4-10 plan. In the implementation of this schedule, 60% of the total number of employees voted for the compressed week. They were given 30 days to make personal arrangements before changing over to the new schedule.

(l) Department of Transportation
Federal Highway Administration
Research and Development

They are experimenting with the 5-4/9 plan which provides that one day each pay period is an 8 hour day; limited flexitime is combined with the schedule. There are 171 employees on the 5-4/9 schedule and 37

employees on an 8 hour schedule. The types of work involved include research and development, contract monitoring, and in-house studies for professional staff; support staff include administrative, secretarial and technical type positions.

From the 12 offices responding, all provided answers for the first five questions; 10 answered the sixth question; and nine answered all 14 questions. The breakdown as to plans being experimented with is as follows; Two with both the 5-4/9 and the 4-10; two with maxiflex; three with the 4-10 only and 5 with the 5-4/9 only. One office reported limited experimentation with the three-day week. With this overview as background, the responses to the questionnaire have been summarized, analyzed and commented upon below. Responses from some offices may fit into more than one category; therefore, totals for individual questions vary from the total number of offices responding.

QUESTION 1a: What impact did the compressed workweek have upon the processing of your payroll:

RESPONSES:

1 - It took the automation people a while to code records to accommodate the 9-hour workday without automatically calculating overtime. The difficulties which had to be overcome were simple. There have been no problems since the initial phase-in.

1 - Initial efforts were disastrous until computer system was fixed to accommodate the longer workday.

4 - No significant impact

1 - No impact

4 - Did not know

1 - Did not address this point

QUESTION 1b: Were there any timekeeping problems? What method of timekeeping did you use before? After?

RESPONSES:

1 - Before: No formal record of starting and departing times kept. After: With compressed workweek signing in and out was initiated.

3 - T & A Clerks had to be trained, but at least one office considered this a benefit, and one office advised T & A sheets had to be redesigned.

1 - Initially increased reliance was placed upon supervisors to monitor accuracy of the T & A records.

1 - Timekeeping was and still is the "Honor System."

1 - Necessary to maintain a flexible and liberal timekeeping policy.

1 - No significant problems or changes.

2 - No problems and no changes

3 - Did not address this part of the question.

CONCLUSION: Other agencies have been able to accommodate their payroll processing to the compressed workweek apparently with no significant problems. One office has volunteered to furnish us advice and assistance. There appears to be no payroll processing reason per se that would prevent our adopting the compressed workweek. The question, therefore, would appear to be whether there are considerations involved in our internal payroll processing system which are insurmountable for whatever reason.

QUESTION 2: Were certain types of work automatically excluded? If so, what were they and the reasons why?

RESPONSES:

9 - None were

1 - Those excluded were high-level supervisors who felt that they should be available 5 days a week and Members of the Board of Contract Appeals who needed to be present for all meetings, scheduled and unscheduled.

1 - Areas of work excluded were offices that were too small, had too many vacancies, or their

mission would be in conflict with the 4-10 week.

1 - Decision to include/exclude left to managers who were not required to justify decisions. Contact person believes decisions were personal/gut reactions rather than rational/production oriented.

CONCLUSION: The use of the compressed workweek appears to be within the realm of feasibility in almost all areas of activity. Exceptions indeed are minimal.

QUESTION 3: What problems have you encountered in implementation? Before? First three months? Now?

RESPONSES: 4 - No problems.

1 - No major implementation problems.

1 - Only payroll

3 - Working out equitable work schedules and the scheduling of breaks.

1 - Early problems in timekeeping. Increasing familiarity with system and supervisory monitoring solved them.

2 - Problem of staff serving as instructors in other areas, attending classes or on military leave. Solved by having them revert to standard 8-5 schedule while in this duty status.

1 - To provide customer service during holiday periods, staff work an 8-hour day the last 9 days of pay period.

1 - Adjusting to the slightly longer workday (9-hour) was accomplished very quickly.

1 - Experimenting with various options for break periods, including shutting down for 15 minutes.

1 - Before: Slight resistance and some reservations by middle managers and supervisors. Fears: Failure of employees to be available when needed; Loss of supervisory control; Loss of productivity late in the day due to fatigue. First Three Months: Difficulty in scheduling some meetings;

Less efficiency in early part of day per some supervisors; some periods when no secretary was available; More lengthy lunch hours per some supervisors.
Now: Anticipated problems have not materialized in most cases. Major problems remaining: The scheduling of inter-office or inter-agency meetings on Fridays and coverage of phones on alternate Fridays in some groups.

1 - Placed restrictions ahead of time to avoid problems which included: Staff signing statement re no overtime payment justified by program; It was made clear that management retained the right to arrange schedules and approve day off; Day off a fixed part of schedule, changeable only at beginning of pay period with supervisory approval.

CONCLUSION: Problems encountered were not overwhelming inasmuch as all of the comments on this question seem to convey that almost without exception that anticipated problems never materialized or that they were successfully solved in short order. It seems only fair to conclude that as a general premise, there are no insurmountable problems in adopting to the compressed work week.

QUESTION 4a: Advantages to employees?

RESPONSES: 8 - Improvement in morale.

3 - More personal time to conduct business, etc.

3 - More long weekends.

3 - Less use of bits and pieces of leave or single-day absences.

2 - Reduced days to commute to work.

3 - More "Quiet" time.

4 - Improved productivity

1 - Greater job satisfaction

1 - Meetings easier to schedule.

1 - Less use of sick leave

1 - Increased educational and training opportunities and self-improvement.

QUESTION 4b: Advantages to Managers?

RESPONSES:

1 - No direct advantage reported

1 - Unknown

1 - Challenge to managers to develop better ways to measure effectiveness and productivity of work unit.

1 - Improvement of employee-management relations.

1 - Marked improvement in morale has resulted in marked improvement in work of staff.

1 - Some advantage in recruitment of new employees.

1 - Greater periods of coverage for organizational units.

2 - Easier to contact West Coast.

6 - Did not address this part of the question.

CONCLUSION: Experimentation to date seems to support the theory that employees have realized many advantages whereas management has realized few, if any. Therefore, it would appear to be a given, certainly at this stage, that employees stand to gain more than managers.

QUESTION 5a: Disadvantages to Employees?

RESPONSES:

4 - None.

5 - Did not address this question.

1 - Increase in sick leave attributed to fatigue factor.

1 - Possibly greater fatigue.

1 - Less carpooling opportunities.

1 - Work interferes with social, educational, and recreational opportunities.

1 - Lunch break strictly enforced.

1 - Some strain on staff who have no options if they miss the "last" bus.

QUESTION 5b: Disadvantages to Managers?

RESPONSES:

1 - None.

2 - Some loss of contact with work force.

2 - Some scheduling problems.

1 - Meetings can be scheduled on Tuesdays, Wednesdays, and Thursdays only.

1 - Setting up meetings on Fridays more difficult.

1 - Everyone present only one day a week; oftentimes it is difficult to have to wait a week for a meeting.

1 - Phone coverage more difficult.

1 - Productivity declined some after 6 months; no hard data yet, however.

4 - No pertinent comments.

CONCLUSION: There are more disadvantages to managers than to employees with the compressed workweek, but from data furnished it does not seem that either is affected adversely to any significant degree.

QUESTION 6: Has the compressed workweek resulted in increased costs of operations in any area? Any decreases in costs?

RESPONSES:

4 - None

1 - No significant changes

3 - Unknown

1 - Not applicable

1 - Record is mixed on cost factors. No hard data. Some increase in sick leave, offset by a reduction in turnover (from 2 1/2 to 2% per month) and in use of overtime. Some increase in use of "administrative time" which when it occurs causes a decline in productivity.

CONCLUSION: The question of costs relating to the compressed work-week have not really been addressed by the offices contacted. The OPM in the overall monitoring of the program has provided for obtaining cost data, but of course no information will be available from them for at least a year, maybe longer.

QUESTION 7: How did you select offices to participate?

RESPONSES: 5 - All offices were given a chance to participate.

3 - Each office decided on a majority vote of staff.

1 - Office heads decided.

CONCLUSION: With only the one excpetion, the decision to participate or not participate was made by the employees themselves.

QUESTION 8: What compressed schedules are you experimenting with? Number of employees participating. Description of the kind of work performed.

THE ANSWERS TO THIS QUESTION HAVE BEEN INCLUDED IN THE INITIAL PART OF THIS REPORT WHICH LISTS ALL THE OFFICES RESPONDING TO THE QUESTIONNAIRE.

QUESTION 9: How are you measuring productivity? Before? During? Now?

RESPONSES: 5 - Not measured.

1 - No current data.

1 - Number of items processed.

1 - Productivity Billing and Management System is and was used to measure the majority of work performed. Functions are performed under a cost reimbursable arrangement. Some areas can only be measured subjectively.

1 - Employees and supervisors are rating work quality and quantity for themselves and each other. Based thereon estimates are made for the overall organization between 8 and 9 hour employee schedules.

CONCLUSION: Here again there is no substantive data, but the OPM is providing for productivity data before and during in certain selected agencies experimenting with the variable work schedule. It will be available whenever the cost data is.

QUESTION 10: What questionnaires have employees and/or managers been asked to respond to?

RESPONSES:

1 - OPM Questionnaire administered to management.

1 - OPM Questionnaire administered to all staff.

4 - No questionnaires administered to staff

1 - Not applicable.

1 - Initial questionnaire to determine if staff wanted to participate and whether they wanted 4-10 or 5-4/9.

1 - Questionnaire administered two different times asking supervisors and staff to evaluate own work and work of others. Also a number of other questions were asked, relating to compressed workweek.

CONCLUSION: Very little appears to have been done at this point to assess the compressed workweek through the use of questionnaires beyond those which for the most part related to participating or not participating. Some samples have been obtained which can be used as guides should the Library elect to use this approach.

QUESTION 11: How do you ensure office coverage for the full day? For the full week? Has the number of hours of service to the public increased? Decreased? Have you had any problems relating to the Fair Labor Standards Act?

RESPONSES:

2 - No change and/or problems in maintaining office coverage.

2 - Set schedules for coverage.

3 - No change in public service hours.

2 - Service hours to public has increased.

1 - Service hours to public decreased in some areas because of hiring freeze.

1 - Division Head covers if analyst not available. Analysts required to plan work, no matter their schedule, to give support staff time to type, collate, etc.

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1 - Part-time staff when hired are required to work a Monday and Friday schedule to help with coverage since these are the heavy workload days and the popular days to have off.

5 - No problems relative to Fair Labor Standards Act.

1 - Computer Programmers were able to solve FLSA problems.

1 - Under FLSA must insure that seasonal staff of students are over 16 years of age before working a 10-hour day.

CONCLUSION: As far as office coverage and hours of service to the public are concerned, no particular problems have surfaced in the data gathering, nor have they with regard to the FLSA. It perhaps can be assumed that with proper planning, scheduling, etc., these considerations would not pose particularly difficult problems to the Library within.

QUESTION 12: Have there been any changes in leave-taking patterns? Sick? Annual?

RESPONSES: 2 - Not measured.

3 - No change.

1 - Decrease in use of small segments of annual and sick leave.

1 - Decrease in use of short periods of sick leave.

1 - Decrease in use of sick leave by 4 hours per pay period.

1 - No change in use of annual leave for employees on 9 hour day; increase in its use for employees on 8 hour day by .6 hour.

CONCLUSION: There really is insufficient data on this question to draw any significant conclusions. It can be assumed if there had been a drastic change in the use of leave after the installation of the compressed workweek offices would have been aware of it and would have in turn commented on it in some fashion.

QUESTION 13: What has been the rate of hardship requests? How have you dealt with them?

RESPONSES: 3 - Not applicable. Individuals were free to go on or get off compressed schedule.

2 - No hardship requests.

2 - Very few requests.

1 - 18 percent of employees requested that they be permitted to stay on the 8 hour workday. All requests were honored. Reasons for the requests included transportation difficulties such as no carpool for 9 hour schedule and working mothers could not get day care easily for a 9 hour schedule.

1 - No instance of staff requesting special circumstances just to get out of the program. Reasons included commuting to Harper's Ferry which has only one train a day and health situations which prevented a longer workday. These staff continued on a regular schedule with no difficulty incurred by the office.

1 - All hardship requests were honored with no questioned asked.

CONCLUSION: No pattern has emerged showing that employees had any difficulty being exempt from the compressed workweek nor that there were any problems with getting the work accomplished with staff doing on more than one kind of schedule. There is, therefore, no basis to feel that the Library would have any difficulties in this area.

QUESTION 14a: What impact have you been able to measure to date on: (a) Efficiency of Government operations.

RESPONSES: 1 - Not applicable.

2 - No comment.

2 - Unknown.

1 - No impact.

1 - Unable to accurately measure or assess.

1 - Has at least been maintained, if not improved.

1 - Greater service to west coast - not specifically measured, although estimated to be about 7 hours per week.

QUESTION 14b: What impact have you been able to measure to date on: (b) Service to public.

RESPONSES: 2 - No reply.

2 - No impact.

1 - Unable to assess or measure accurately.

1 - No measurable change.

2 - Extended coverage.

1 - Increased period of about 5 hours per week organization-wide.

QUESTION 14c: What impact have you been able to measure to date on: (c) Mass transit facilities.

RESPONSES: 1 - No reply.

1 - No impact.

1 - Unknown.

1 - 1 percent increase in mass transit and 1 percent increase in carpooling organizationally.

1 - Decline in use of mass transit, increase in carpooling.

1 - Has caused some problems with carpooling

1 - No new problems in use of transit; extension of the workday one hour in either direction does not make any negligible difference on commuting patterns.

QUESTION 14d: What impact have you been able to measure to date on: (d) Energy consumption.

RESPONSES: 2 - No reply.

1 - No impact.

1 - Unknown.

1 - No change noted.

1 - Unable to assess or measure accurately.

1 - More carpools have been formed.

1 - No observations except for reduction in personal use of gas with one less workday per pay period.

1 - No direct measures yet. Organization-wide, slight increase in travel times (about 2 minutes) but 9-hour employees travel time 5.5 minutes less than 8-hour employees. Estimates will be made in formal report.

QUESTION 14e: What impact have you been able to measure to date on: (e) Increased opportunities for full-time and part-time employment.

1 - No reply.

1 - Most staff are very tired at end of the workweek and not interested in going to another job.

1 - No impact.

1 - Not applicable.

2 - Unknown.

1 - Unable to assess or measure accurately.

1 - No explicit evaluation has been made.

1 - Employment activities greatly restricted at this time, so no observable patterns of increased opportunities. Experiment has involved full-time staff only. A great number of staff already working part-time.

QUESTION 14f: What impact have you been able to measure to date on: (f) The quality of life for individuals and families.

RESPONSES: 1 - No impact.

1 - No reply.

1 - Unknown.

1 - Increased

1 - It is felt that there has been some positive benefit.

1 - Mothers who have arranged child care (staff is 3/4 female) continue the child care on their day off and use the day for personal "catching-up."

1 - The quality of life for individuals and families has improved 1000%. Staff delighted with plan and can't think in terms of going back to old schedule. Many staff are now able to attend courses that were previously impossible.

1 - Ratings supplied in response to the questionnaire suggest that 9-hour employees are: (1) More tired after work, (2) Harder to get along with and (3) More restricted in their social, educational and recreational activites.

CONCLUSION: The legislation itself specifically requires that the items addressed in this question be evaluated. To date agencies have looked at them not at all or in a very limited way, with most observations reported not being supported by hard data. It is interesting that on the last part of the questionnaire, two directly opposite reactions have been reported. Evaluation will have to await the availability of sufficient data which the OPM is obliged to obtain.

In addition to the solicitation of data from other agencies, the Financial Management Office and the Automated Systems Office were asked to comment on the implications of the compressed workweek from their points of view. Both have complied.

It was made clear that should the Library adopt the compressed workweek, it would not embrace credit hours. The "credit hour" concept is applicable under Title I of the Act which has to do with Flexible Scheduling of Work Hours. The 4-Day Week and Other Compressed Work Schedules are governed by Title II of the Act. With this as a given, both these Offices concede that the payroll processing can accommodate

the compressed workweek; however, the Chief of the Financial Management Office points out, "At the very least, to implement the compressed work schedule with the current staff will be a hardship and other work will have to be delayed." He also emphasizes that at least six months to a year advanced notice would be required in order to prepare, print and distribute a new Time and Attendance Manual. He also points out that advanced training would be required for all of those involved in the time and attendance process.

Both Offices urge either a complete revision of the present payroll system or the design of a new system which would, in addition to compressed workweek considerations, make those changes resulting from the Civil Service Reform Act (CSRA) of 1978 more easily implemented. ASO makes the point that the CSRA "has created a more complex federal pay structure than our present system was designed to process, and there is no reason to believe that other changes are not forthcoming."

As part of the data collected by the Task Force, a memorandum was submitted from the Copyright Office management which urged settlement of the question, "Can we get the necessary legislation which would allow the Library of Congress to experiment with the compressed workweek notion?" If so, it is pointed out further that, "It would seem more appropriate for the group to do an internal feasibility study of this situation rather than making observations of this experiment at work in other federal agencies."

1 March 1982

The Honorable Ted Stevens
Chairman, Subcommittee on Civil
Service, Post Office and General Services
Senate Committee on Governmental Affairs
57 Capitol Hill Annex
Washington, D.C. 20510

Dear Chairman Stevens:

I note that this week you will chair hearings on legislation which would provide flexible working schedules for U.S. governmental employees under an extension of the alternative work schedules provisions of the Federal Employees Flexitime and Compressed Work Schedules Act.

I would like to submit for your hearing record a copy of testimony I delivered before the House Post Office Subcommittee on Human Resources during hearings on similar legislation. The National Broiler Council fully supports legislation which would provide for permanent enactment of the alternative work schedules provisions of the flexitime legislation.

I regret that my schedule could not permit the presentation of testimony at your hearing.

Respectfully submitted,

Kerri Ridenour

Kerri Ridenour
Director of Government Relations

KR/lb
Enclosures

The Madison Building-Suite 614/1155 Fifteenth Street, N.W./Washington, D.C. 20005/202 296-2622

Statement of
The National Broiler Council
On H.R. 5366, Federal Employees Flexitime
And Compressed Work Schedules Act of 1982
Before The
Subcommittee on Human Resources
House Committee on Post Office & Civil Service
February 9, 1982

I am Kerri Ridenour, Director of Government Relations of the National Broiler Council. The Council is a trade association representing the producers and processors of over 75% of the broiler/fryer chicken consumed in the United States. The Council is very pleased for the opportunity to present our views on legislation which would permanently enact the Alternative Work Schedules (AWS) provisions of the Federal Employees Flexitime and Compressed Work Schedules Act of 1978.

The Act was designed to allow experimentation with a variety of flexible and/or compressed working schedules for federal employees. It was anticipated that utilization of AWS could result in energy savings, reduced commuting congestion, an increase in employment opportunities, and a general improvement of the quality of life of those federal employees operating under AWS. The Office of Personnel Management (OPM) in its interim report to the President and the Congress (September, 1981) said that:

"Approximately 30-35 percent reported a small improvement in efficiency of operation.

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"AWS led to small reductions in total (work and nonwork related) vehicle miles traveled per week and to increase in use of mass transit and car/van pooling.

"Compressed schedules have the potential to reduce building energy consumption if buildings are closed down on nonwork days.

"Most experimenting organizations increased the number of hours they were open or available to serve the public.

"AWS allowed employees increased control over the matching of interest outside the job with work requirements.

"On the employee survey more than 90 percent of employees and more than 85 percent of supervisors were satisfied with and wish to retain their AWS schedule.

"When asked to rate the success of experiment and future AWS plans, more than 79 percent of experimenting organizations judged it a success and 83 percent plan to continue until the expiration of authority."

Further, OPM noted that "...all of the alternative work schedule types used in the experiment were successful in most situations from the perspective of both the experimenting organizations and individuals." OPM concluded by recommending that Congress enact permanent legislation authorizing continued use of Alternative Work Schedules in the federal government.

In 1980, government inspectors, who are stationed on a more-or-less permanent basis within poultry and meat plants to provide mandatory inspection, were granted the opportunity to consider working one of the AWS -- the Compressed 4-10, or a ten-hour, four-day workweek. A number of the "units" (in this case particular plants) voted to experiment with the 4-10. The poultry industry supported these efforts, as we foresaw substantial savings in terms of energy and water savings, increased productivity, and an opportunity for increased leisure time both for the federal employees and the private industry employees who work with the inspectors. Several of the plants are still utilizing the compressed 4-10 AWS very effectively.

One of our members who operated his establishment on a 4-10 schedule for more than a year found it most beneficial. The reasons cited for this plant's satisfaction with the AWS were:

1. Energy Savings - The energy necessary for the following was reduced by 20% when compared to five 8-hour workdays: (1) heating the water for the scald vats; (2) making ice for the chillers; (3) producing the steam and hot water for a washdown and sanitation of the plant; and (4) the amount of travel by all employees.

2. Conservation of Water - The amount of water it takes to fill the scald tanks, chill tanks and sanitize the plant was reduced by 20%.

3. Reduction of Weekend Labor - The maintenance required to operate a plant is traditionally done on Saturday while the plant is shut down. On a compressed workweek, this maintenance can be accomplished on Friday. This reduced overtime and enables the maintenance personnel to be off on Saturday

and Sunday. If a major equipment change requires three days to accomplish, it can be carried out without shutting down the plant.

4. The Quality of Life - All employees enjoyed the compressed workweek. It enabled them to do their shopping on Friday when the traffic and congestion in the stores are reduced. They had more time for leisure activities and it reduced childcare costs by 20%. By having an additional day to take care of personal affairs, our absenteeism was reduced.

OPM, in its evaluation of the 4-10 AWS, said that while the 4-10 "is the most extreme departure from the traditional 8-hour day," it had some of the "largest improvements in productivity, and the highest reported increase in quality, quantity, and timeliness of the work product." In addition, the 4-10 resulted in the "greatest reduction in commuting time, the greatest potential building energy savings," and "allowed employees increased leisure time spent with the family." The 4-10, as well as the other schedules utilized under the AWS provisions of the Flexitime Act have great merit. We believe that the 4-10 has particular merit in the poultry industry/government inspector situation. Not only do the federal employees benefit from the program, but private industry employees benefit as well. A program which was designed to aid federal workers has resulted in the improvement of the working situation of private industry employees as well, a two-fold advantage in this unique situation.

The broiler industry has only one reservation about the AWS program. While it is addressed neither in the original 1978 Act nor H.R. 5366, there is a prohibition contained in the Federal Personnel Manual, Appendix A, Chapter

610-A, against working on a fifth, sixth or seventh day of operations for other than an "emergency situation." Unfortunately, those emergency situations are described as major earthquakes, fires, floods, hurricanes, and the like. Broilers are a biological product and are subject to a variety of processing variables — weather, disease, size, feed components and the like — that are not adaptable to a rigid schedule. Unlike red meat slaughtering plants, broiler plants have no facilities for feeding and watering live poultry. Broilers, therefore, cannot effectively be held overnight for slaughter the following day — the mortality rate is extremely high and those broilers which do survive suffer weight loss, bruising and other damage.

We believe these prohibitions against overtime should be made more flexible so that occasional necessary work on a fifth day could be accomplished. Under a traditional 5-day workweek, prohibitions against overtime are not so stringent as they are under the AWS programs. We feel this is unduly restrictive and unnecessary.

We would hope that the legislation might be amended to provide for less restrictive conditions for working overtime while on a compressed workweek, particularly in light of the unique situation which finds government workers and private industry personnel working side-by-side. At the very least, we would be pleased to see this issue addressed in the language of the report on the legislation.

In summary, the National Broiler Council applauds the success of the AWS programs, and support, with the one reservation mentioned above, permanent enactment of legislation which would allow the continued use of AWS.

* * *

NATIONAL FEDERATION OF
PROFESSIONAL ORGANIZATIONS
Suite 900
1029 Vermont Avenue, N.W.
Washington, D.C. 20005

February 26, 1982

The Honorable Ted Stevens, Chairman
Subcommittee on Civil Service and General Services
United States Senate
Washington, D.C.

Dear Mr. Chairman:

We understand that your subcommittee will hold hearings on Wednesday, March 3, on the "Flexitime" bill, H.R. 5366, and on a differing Administration proposal.

We are a federation of eleven Federal professional societies, and we are writing to express our support of the House bill. We believe that the existing law that will expire on March 29 (P.L. 95-390) has been of great benefit to Federal employees. Most employees have other responsibilities than their work--especially women with children--and to the extent that their work schedule can accomodate other responsibilities they are bound to be more happy and satisfied in their jobs. We understand that over 325,000 Federal employees have participated in the present experimental program, and are enthusiastic with it.

We do not favor the Administration proposal (as testified to before the House Committee) that no agency be permitted to engage in the program unless it can prove that it would be "productive." We think that increased productivity is an inevitable product of happy and satisfied employees with heightened morale. This is aside from the benefit of increased service to the public resulting from an extended workday.

We also oppose the Administration's proposal to delete the present provision that provides that employees in any unit for which a union has been accorded exclusive recognition shall be included in the flexitime program only as provided by agreement between the agency and the union. We are a federation of professional societies, not unions, but we fully support the union position that where employees have selected a bargaining representative, that representative is entitled to a voice in the creation and operation of a flexitime program.

We would appreciate it if this communication could be made a part of the record.

Sincerely,

James D. Hill

James D. Hill
Executive Director

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